



# Journal of the House

State of Indiana

112th General Assembly

Second Regular Session

Twelfth Meeting Day

Thursday Morning

January 24, 2002

The House convened at 10:00 a.m. with the Speaker in the Chair.

The invocation was offered by Representative Dennie Oxley II.

The Pledge of Allegiance to the Flag was led by Representative Timothy N. Brown.

The Speaker ordered the roll of the House to be called:

T. Adams	Hoffman
Aguilera	Kersey
Alderman	Klinker
Atterholt	Kromkowski
Avery	Kruse
Ayres	Kruzan
Bardon	Kuzman
Bauer	Lawson
Becker	Leuck
Behning	Liggett
Bischoff	J. Lutz
Bodiker	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	McClain
C. Brown	Mock
T. Brown	Moses ☐
Buck	Munson
Budak	Murphy
Buell	Noe
Burton	Oxley
Cheney	Pelath
Cherry	Pond
Cochran	Porter
Cook	Reske
Crawford	Richardson
Crooks	Ripley
Crosby	Robertson
Day	Ruppel ☐
Denbo	Saunders
Dickinson	Scholer
Dillon	M. Smith
Dobis	V. Smith
Dumezich	Steele
Duncan	Stevenson
Dvorak	Stilwell
Espich	Sturtz
Foley	Summers
Frenz	Thompson
Friend	Tincher
Frizzell	Torr
Fry	Turner
GiaQuinta	Ulmer
Goodin	Weinzapfel
Grubb	Welch
Harris	Whetstone
Hasler	Wolkins
Herndon	D. Young
Herrell	Yount
Hinkle	Mr. Speaker

Roll Call 18: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

## HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, January 28, 2002, at 1:00 p.m.

OXLEY

Motion prevailed.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1015, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Page 1, line 1, delete "IC 24-3-5" and insert "IC 4-6-9.1".

Page 1, line 2, delete "JULY" and insert "UPON PASSAGE]:".

Page 1, delete line 3.

Page 1, line 4, delete "5." and insert "9.1".

Page 1, line 4, after "Gouging" insert "in Declared Emergencies".

Page 1, line 5, delete "As used in this chapter, "commodity" means a good," and insert "(a) Sections 1 through 7 of this chapter apply to the period during which an emergency is declared and the twenty-four (24) hours before the declaration by the governor under IC 10-4-1-7 or IC 10-4-1-7.1.

(b) The definitions in IC 10-4-1-3 apply to this chapter.

Sec. 2. For purposes of this chapter, "price gouging" means charging a consumer an unconscionable amount for the sale of fuel. Price gouging occurs if:

(1) the amount charged grossly exceeds the average price at which fuel was readily obtainable within the retailer's trade area during the seven (7) days immediately before the declaration of emergency; and

(2) the increase in the amount charged is not attributable to cost factors to the retailer, including replacement costs, taxes, and transportation costs incurred by the retailer.

Sec. 3. It is unlawful for a retailer to sell a commodity to a consumer at an unconscionable price within the area for which a state of emergency has been declared.

Sec. 4. The attorney general has the following powers and duties regarding price gouging:

(1) To investigate complaints received claiming price gouging.

(2) To seek injunctive relief as appropriate.

(3) To seek restitution for victims of price gouging.

(4) To institute an action to levy and collect a civil penalty.

Sec. 5. (a) Information obtained during the attorney general's investigation under this chapter, including information from a person who responds to the investigation and designates the information as confidential, must be maintained as confidential until the investigation is completed by the attorney general and a course of action is determined. The attorney general may not make known in any manner any information obtained in the course of the investigation to persons other than those specified in subsection (c). Once the investigation is completed, if there is an agreed upon settlement or if charges are filed, the information becomes public.

(b) This section does not prohibit the use of confidential information to prepare statistics or other general data for

publication, if the information is presented in a manner that prevents identification of particular persons or locations under investigation.

(c) For purposes of this section, references to the attorney general include other individuals designated in writing and acting on behalf of the attorney general during the investigation. A person designated shall preserve the confidentiality of information under subsection (a).

(d) A person who is served with a request for information, a subpoena to give testimony orally or in writing, or a request or order to produce books, papers, correspondence, memoranda, agreements, or other documents or records under this chapter may apply to any court for protection against abuse or hardship.

Sec. 6. If an investigation by the attorney general results in a finding of price gouging, the attorney general may bring an action in a circuit or superior court with jurisdiction in the county where the price gouging allegedly occurred. If the court finds that the retailer engaged in price gouging, the court may assess a civil penalty against the retailer. The civil penalty may not be more than one thousand dollars (\$1,000) per transaction.

Sec. 7. Civil penalties collected under section 6 of this chapter must be deposited in the state general fund.

Sec. 8. This chapter preempts the power of local governments to regulate pricing of commodities under a declaration of emergency:

- (1) under IC 10-4-1-7;
- (2) under IC 10-4-1-7.1; or
- (3) by a local government.

SECTION 2. An emergency is declared for this act."

Page 1, delete lines 6 through 17.

Delete page 2.

(Reference is to HB 1015 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 1.

SUMMERS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1030, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 20, after "absence of" insert "**not more than**".

Page 2, line 21, after "days" insert ", **as determined by the attending physician,**".

Page 2, line 29, after "absence of" insert "**not more than**".

Page 2, line 30, after "days" insert ", **as determined by the attending physician,**".

Page 3, after line 5, begin a new paragraph and insert the following:

"SECTION 2. IC 9-24-17-1, AS AMENDED BY P.L.29-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **A The application form for a driver's license and an identification card issued under IC 9-24-16 must contain a form by which the allow an applicant may make to acknowledge the making of an anatomical gift under IC 29-2-16.**

SECTION 3. IC 9-24-17-8, AS AMENDED BY P.L.29-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) Each anatomical gift made under this chapter must be ~~signed~~ **made** by the donor **by acknowledging the making of the anatomical gift by signing the application form for the driver's license or identification card under section 1 of this chapter.** If the donor cannot sign, the ~~document application form~~ **application form** may be signed for the donor ~~(1) at the donor's direction and in the donor's presence. and (2) in the presence of two (2) witnesses who must sign the document in the donor's and each other's presence.~~

~~(b) The card must state that the document was signed in accordance with this section:~~

~~(c) (b) The bureau shall place an identifying symbol on the face of~~

the license or identification card to indicate that ~~an executed document acknowledging the person to whom the license or identification card is issued has acknowledged~~ the making of an anatomical gift is located on the back of the license or identification card: **on the application form for the license or identification card as set forth in subsection (a).**

~~(d) If a document of gift is attached to or imprinted on a donor's motor vehicle driver's license or identification card issued under IC 9-24-16, the document of gift must comply with this section: (c) Revocation, suspension, or cancellation of the license or expiration of the license or identification card does not invalidate the anatomical gift.~~

**(d) An anatomical gift is valid if the person acknowledges the making of the anatomical gift by signing the application form for a driver's license or identification card under subsection (a). No other acknowledgment is required to make an anatomical gift.**

SECTION 4. IC 29-2-16-4, AS AMENDED BY P.L.29-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) A gift of all or part of the body under section 2(a) of this chapter may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) of this chapter may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor. **Except as provided in IC 9-24-17-8,** if the donor cannot sign, the document may be signed by another for the donor:

- (1) at the donor's direction and in the donor's presence; and
- (2) in the presence of two (2) witnesses who must sign the document in the donor's presence and each other's presence.

The document must state that it has been signed in accordance with this subsection. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The gift of an eye or part of an eye made without specifying a donee, or made to a donee who is not available at the time and place of death and without an expression of a contrary desire, may be accepted by the attending physician as donee on behalf of an eye bank in Indiana. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b) of this chapter, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) After proper certification of death by a physician and compliance with the intent of the gift as determined by reference to this chapter:

- (1) with respect to a gift of an eye or part of an eye, including the cornea or corneal tissue, the eye or part of the eye may be removed for the gift by:

- (A) a physician licensed under IC 25-22.5; or
- (B) an individual who is registered with the medical licensing board as a corneal excision technician; or

- (2) with respect to a gift of a whole eye, the eye may be removed for the gift by:

- (A) a physician licensed under IC 25-22.5;
- (B) an individual who is registered with the medical licensing board as a corneal excision technician;
- (C) an embalmer or a funeral director who, before September 1, 1983, completed a course in eye enucleation and was certified as competent to enucleate eyes by an

accredited school of medicine; or

(D) an individual who is registered with the medical licensing board as an eye enucleator.

(f) A person who, in good faith reliance upon a will, card, or other document of gift, and without actual notice of the amendment, revocation, or invalidity of the will, card, or document:

- (1) takes possession of a decedent's body or performs or causes to be performed surgical operations upon a decedent's body; or
- (2) removes or causes to be removed organs, tissues, or other parts from a decedent's body;

is not liable in damages in any civil action brought against the donor for that act.

(g) Any gift by a person designated in section 2(b) of this chapter shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(h) An individual may refuse to make a gift under this chapter or IC 9-24-17 of all or part of the individual's body by any of the following methods:

(1) A writing signed in the same manner as a document under subsection (b).

~~(2) A written statement attached to or imprinted on a person's anatomical gift card received from the bureau of motor vehicles under IC 9-24-17 and signed in the same manner as a gift under IC 9-24-17-8.~~

~~(3) (2) Any writing used to identify the individual as refusing to make an anatomical gift under this chapter.~~

During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(i) In the absence of a contrary indication by an individual, a gift under this chapter of a part of the individual's body is neither a refusal to give other parts of the body nor a limitation to give only part of the body under this chapter or IC 9-24-17.

(j) In the absence of a contrary indication by an individual, a revocation or an amendment under section 6 of this chapter is not a refusal to make another gift under this chapter. If an individual intends a revocation to be a refusal to make a gift under this chapter, the individual must make the refusal in accordance with subsection (h).

(k) A gift under this chapter or IC 9-24-17 that is not revoked before the donor dies is irrevocable.

~~(l) If a document of gift is attached to or imprinted on a donor's motor vehicle driver's license or identification card issued under IC 9-24-16, the document of gift must comply with this section. Revocation, suspension, or cancellation of the license or expiration of the license or identification card does not invalidate the anatomical gift.~~

**(m) An anatomical gift is valid if the person acknowledges the making of the anatomical gift by signing an application form for a driver's license or an identification card under IC 9-24-17-8. No other acknowledgment is required to make an anatomical gift.**

**SECTION 5. [EFFECTIVE JULY 1, 2002] (a) IC 9-24-17-1, IC 9-24-17-8, and IC 29-2-16-4, all as amended by this act, do not affect the validity of an anatomical gift made before July 1, 2002.**

**(b) This SECTION expires July 1, 2007."**

(Reference is to HB 1030 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1042, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 6, nays 4.

LYTLE, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1043, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

LYTLE, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1095, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

**SECTION 1. IC 5-11-4-3, AS AMENDED BY P.L.291-2001, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:** Sec. 3. (a) The expense of examination and investigation of accounts shall be paid by each municipality or entity as provided in this chapter.

(b) The state examiner shall not certify more often than monthly to the auditor of each county the amount chargeable to each taxing unit within the county for the expense of its examinations as provided in this chapter. Immediately upon receipt of the certified statement, the county auditor shall issue a warrant on the county treasurer payable to the treasurer of state out of the general fund of the county for the amount stated in the certificate. The county auditor shall reimburse the county general fund, except for the expense of examination and investigation of county offices, out of the money due the taxing units at the next semiannual settlement of the collection of taxes.

(c) If the county to which a claim is made is not in possession or has not collected the funds due or to be due to any examined municipality, then the certificate must be filed with and the warrant shall be drawn by the officer of the municipality having authority to draw warrants upon its funds. The municipality shall pay the warrant immediately. The money, when received by the treasurer of state, shall be deposited in the state general fund.

(d) Except as otherwise provided in this chapter, each:

**(1) taxing unit; and**

**(2) soil and water conservation district;**

shall be charged at the rate of forty-five dollars (\$45) per day for each field examiner, private examiner, expert, or employee of the state board of accounts who is engaged in making examinations or investigations. Except as provided in subsection (h), all other entities shall be charged the actual cost of performing the examination or investigation.

(e) The state examiner shall certify, not more often than monthly, to the proper disbursing officer the total amount of expense incurred for the examination of:

(1) any unit of state government or entity that is required by law to bear the costs of its own examination and operating expense; or

(2) any utility owned or operated by any municipality or any department of the municipality, if the utility is operated from revenues or receipts other than taxation.

Upon receipt of the state examiner's certificate the unit of state government, entity, or utility shall immediately pay to the treasurer of state the amount charged. The money, when received by the treasurer of state, shall be deposited in the state general fund.

(f) In addition to other charges provided in this chapter, the state examiner may charge a reasonable fee for typing and processing reports of examination in the same manner as other charges are made under this chapter.

(g) There is created a trust and agency fund in the hands of the state examiner to be used by him for the payment of the expense of typing reports of examination. Fees charged for typing reports of examination shall be deposited into the trust and agency fund.

(h) A municipality that contracts for services with a volunteer fire department may pay the cost of an examination or investigation of the volunteer fire department under this chapter.

(Reference is to HB 1095 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

LYTLE, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1106, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 10, line 17, after "including" insert "**competency**".

Page 10, line 17, delete "for the".

Page 10, line 18, delete "competent installation of manufactured homes".

Page 10, run in lines 17 through 18.

Page 11, line 20, delete "The license obtained from the board is the" and insert "**A political subdivision may not require a licensee to submit to any other form of licensing. However, this article does not limit the power of a political subdivision to regulate the quality and character of work performed by a licensee through the enforcement of building codes or conducting inspections.**".

Page 11, delete line 21.

Page 11, line 32, delete "a" and insert "**the**".

Page 11, line 32, delete "factory" and insert "**installation training course**".

Page 11, delete lines 33 through 34.

Page 15, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 10. [EFFECTIVE UPON PASSAGE] (a) **The definitions in IC 25-23.7-2, as added by this act, apply throughout this SECTION.**

(b) **An individual who applies for a license as an installer of a manufactured home under IC 25-23.7, as added by this act, is not required to meet the requirements set forth in IC 25-23.7-5-2(1)(D), as added by this act. Such an individual is required to do the following:**

(1) **Show to the satisfaction of the board that the individual is an experienced installer.**

(2) **Comply with the other requirements of IC 25-23.7-5-2, as added by this act.**

(c) **This SECTION expires July 1, 2005.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1106 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

FRY, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1123, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 34, after "as" insert "**Voter**".

Page 2, line 40, after "as" insert "**Voter**".

(Reference is to HB 1123 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

SUMMERS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1159, has had the same under consideration and begs leave to report the same back to the House with the

recommendation that said bill do pass.

Committee Vote: yeas 14, nays 0.

SUMMERS, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1174, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 3 and 4, begin a new paragraph and insert:

**"(d) This subsection applies to a political subdivision located in more than one (1) county. If a political subdivision is described in a statute by reference to the county in which the political subdivision is located, the reference is to the county that contains a majority of the population of the political subdivision."**

Page 2, line 4, delete "(d)" and insert "(e)".

Page 2, line 13, delete "(e)" and insert "(f)".

Page 86, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 94. IC 12-29-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2002]: Sec. 2. (a) Subject to subsection (b), a county shall fund the operation of community mental health centers in an amount not less than the amount that would be raised by an annual tax rate of one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of taxable property within the county, unless a lower tax rate will be adequate to fulfill the county's financial obligations under this chapter in any of the following situations:

(1) If the total population of the county is served by one (1) center.

(2) If the total population of the county is served by more than one (1) center.

(3) If the partial population of the county is served by one (1) center.

(4) If the partial population of the county is served by more than one (1) center.

(b) This subsection applies only to a property tax that is imposed in a county ~~having a population of more than seven hundred thousand (700,000)~~ **containing a consolidated city**. The tax rate permitted under subsection (a) for taxes first due and payable after calendar year 1995 is the tax rate permitted under subsection (a) as adjusted under this subsection. For each year in which a general reassessment of property will take effect, the state board of tax commissioners shall compute the maximum rate permitted under subsection (a) as follows:

STEP ONE: Determine the maximum rate for the year preceding the year in which the general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent) in the assessed value of the taxable property from the year preceding the year the general reassessment takes effect to the year that the general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent) in the assessed value of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by one (1) plus the STEP SIX percentage increase.

This maximum rate is the maximum rate under this section until a new maximum rate is computed under this subsection for the next year in which a general reassessment of property will take effect."

Page 95, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 107. IC 14-33-5.4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2002]: Sec. 1. (a) This chapter applies only to conservancy districts located wholly within a county having a population of more than ~~twenty-two thousand (22,000)~~ but less than ~~twenty-three thousand (23,000)~~: **twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000).**

(b) This article governs conservancy districts located wholly within a county having a population of more than ~~twenty-two thousand (22,000)~~ but less than ~~twenty-three thousand (23,000)~~ **twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000)** generally except when this article conflicts with a section of this chapter."

Page 98, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 113. IC 16-22-2-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2002]: Sec. 3.1. (a) This section applies to a hospital operated under IC 16-12-4-2 (before its repeal on July 1, 1993) that is located in a county having a population of more than ~~thirty-seven thousand (37,000)~~ but less than ~~thirty-seven thousand eight hundred (37,800)~~: **forty-one thousand (41,000) but less than forty-three thousand (43,000).**

(b) The management of a hospital is under the control of a governing board. The governing board consists of nine (9) members appointed by the county executive as follows:

(1) Three (3) members must be members of the county executive.

(2) Six (6) members must be residents of the county and not more than three (3) members may be from the same political party. One (1) member may be a licensed physician.

(c) The term of each member of the governing board is three (3) years.

(d) If a vacancy occurs due to the expiration of an appointed member's term and the county executive does not fill the vacancy within sixty (60) days from the date of expiration, the member whose term has expired is automatically reappointed for another term."

Page 118, delete lines 27 through 42, begin a new paragraph and insert:

"SECTION 144. IC 25-34.1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2002]: Sec. 1. (a) The Indiana real estate commission is created. ~~It~~

(b) ~~The commission consists of one (1) the following:~~

(1) ~~Nine (9) district member from members. Each Indiana congressional district of this state and must be represented by one (1) individual appointed under this subdivision.~~

(2) ~~One (1) real estate member at large.~~

(3) ~~Two (2) citizen members at large.~~

~~A district member described in subdivision (1) must be a resident of the represented district for not less than one (1) year. and A member described in subdivision (1) or (2) must have engaged in business as a license broker for not less than five (5) years. Citizen members at large shall be appointed to represent the general public, and must be residents of this state who Indiana, and have never been associated with the real estate business in any way other than as a consumer.~~

~~(b) (c)~~ Each member of the commission shall be appointed by the governor and shall serve a four (4) year term. If a successor has not been appointed, the current member shall serve until a successor is appointed and qualified. If a vacancy occurs on the commission, the governor shall appoint an individual to serve the unexpired term of the previous member and until a successor is appointed and qualified.

~~(e) (d)~~ A member of the commission may not hold a state or federal elective office."

Page 119, delete lines 1 through 3.

Renumber all SECTIONS consecutively.

(Reference is to HB 1174 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

KROMKOWSKI, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1176, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 1.

LYTLE, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 13, delete "fifteen" and insert "**nine**".

Page 1, line 13, delete "\$15" and insert "**(\$9)**".

Page 1, line 14, after "each boat" insert "**that is sixteen (16) feet or less in length and that is**".

Page 1, line 14, after "decals." insert "**The lake and river enhancement fee for a boat that is required to have boat excise decals is twelve dollars (\$12) if the boat is more than sixteen (16) feet in length.**".

(Reference is to HB 1221 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

LYTLE, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-23.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 23.7. "**Fax**" refers to **transmission of information by a facsimile (fax) machine.**"

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 5. IC 3-7-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. A voter described in section 1 of this chapter who **wants to:**

(1) ~~is eligible for an vote by~~ absentee ballot under IC 3-11-4; and

(2) ~~wants to~~ execute an affidavit or a form for voter registration;

is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be signed by such a person.

SECTION 6. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. (a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.

(b) When a circuit court clerk or board of registration receives an application for absentee registration, the clerk or board shall promptly mail or deliver to the applicant the affidavit prescribed by this ~~chapter~~ title for the registration of an absentee voter by absentee process.

(c) When the properly executed and certified affidavit is returned to the clerk or board, the applicant becomes a registered voter in the precinct of residence."

Page 6, between lines 6 and 7, begin a new paragraph and insert: "SECTION 15. IC 3-11-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 0.5. For purposes of this chapter, an absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:**

- (1) sent by United States mail addressed to the voter;
- (2) transmitted by fax to a number provided by the voter; or
- (3) personally given to the voter.

SECTION 16. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) A voter who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, ~~but who expects to be:~~

- (1) ~~absent from the county on election day;~~
- (2) ~~absent from the precinct of the voter's residence on election day because of service as a precinct election officer under IC 3-6-5, IC 3-6-6, or IC 3-6-8; as a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10; as a challenger or pollbook holder under IC 3-6-7, or as a person employed by an election board to administer the election for which the absentee ballot is requested;~~
- (3) ~~confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury;~~
- (4) ~~a voter with disabilities;~~
- (5) ~~an elderly voter;~~
- (6) ~~prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury; or~~
- (7) ~~scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;~~

is ~~eligible~~ **entitled** to vote by absentee ballot. **Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk or at a satellite office established under IC 3-11-10-26.3.**

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 17. IC 3-11-4-2, AS AMENDED BY P.L.38-1999, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) A voter who is ~~eligible~~ **wants** to vote by absentee ballot must apply to the county election board for an official absentee ballot.

(b) If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

SECTION 18. IC 3-11-4-3, AS AMENDED BY P.L.176-1999, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b) and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of

elections and registration) not earlier than ninety (90) days before election day nor later than the following:

- (1) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk.
- (2) Noon on the day before election day if:
  - (A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and
  - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.
- (3) Midnight on the eighth day before election day if the application:
  - (A) is a mailed application; or
  - (B) was transmitted by a ~~facsimile fax; machine;~~ from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by ~~facsimile fax, transmission;~~ mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by ~~facsimile fax transmission~~ or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 19. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Applications may be made:

- (1) in person;
- (2) by fax; ~~transmission;~~ or
- (3) by mail;

on application forms furnished by the county election board or approved by the commission.

(b) Application forms shall:

- (1) be furnished to all central committees in the county no later than:

(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or

(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;

(2) be:

(A) mailed; or

(B) ~~except as provided in subsection (c);~~ transmitted by fax; ~~machine;~~

upon request, to a voter applying by mail, by telephone, or by fax; ~~transmission;~~ and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

- (1) accept; and
- (2) transmit;

applications for absentee ballots under subsection (a) ~~using a facsimile (FAX) machine; only if the county election board owns or has access to a FAX machine. However, by fax.~~ A county election board shall accept an application for an absentee ballot transmitted by fax ~~machine~~ even though the application is delivered to the county election board by a person other than the person submitting the application.

SECTION 20. IC 3-11-4-6, AS AMENDED BY P.L.273-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for **the following:**

(1) An absent uniformed services voter. ~~(as defined in 42 U.S.C. 1973ff-6(1)); and~~

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) **An overseas voter.**

(b) A county election board shall make blank absentee ballot

applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) Whenever ~~an absent uniformed services voter or an address confidentiality program participant (as defined in IC 5-26.5-1-6)~~ **a voter described in subsection (a)** files an application for a primary election absentee ballot and indicates on the application that:

(1) the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; ~~or~~

(2) the voter is an address confidentiality program participant; ~~or~~

**(3) the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;**

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and ~~mail send~~ general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and ~~mailed sent~~ under this chapter.

(f) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

(g) This subsection applies to a county election board that owns or has access to a facsimile (FAX) machine. The county election board ~~may shall~~ transmit and receive absentee ballots by fax machine to voters covered under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff) under the following circumstances:

(1) If an emergency is declared by the President of the United States, the Congress of the United States, or the presidential designee under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff);

(2) If otherwise mandated to do so under federal law;

to an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot."

(h) The county election board shall send confirmation to a voter described in subsection (g) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall

send the confirmation to the voter at the electronic mail address provided by the voter.

**(3) If the voter does not provide a fax number or an electronic mail address, the county election board shall send the confirmation by United States mail.**

**The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.**

SECTION 21. IC 3-11-4-7, AS AMENDED BY P.L.273-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 7. **(a)** An absentee ballot application under section 6 of this chapter must

~~(1) be made on a standard form approved under 42 U.S.C. 1973ff(b) or on the form prescribed by the commission under section 5.1 of this chapter. and~~

**(2) show that the: (b) An absentee ballot application under section 6 of this chapter from an:**

~~(A) (1) absent uniformed services voter; (as defined in 42 U.S.C. 1973ff-6(1)); or~~

~~(B) (2) address confidentiality program participant (as defined in IC 5-26.5-1-6);~~

**must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.**

**(c) An absentee ballot application under section 6 of this chapter from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.**

SECTION 22. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. **(a)** Except as provided in subsection (b), an overseas voter may apply for an absentee ballot from this state and vote by absentee ballot in an election in this state for which the voter is qualified and in which absentee ballots are used:

**(b)** An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

**(c)** A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (d), the person may apply for an absentee ballot at any time after the applications are made available:

**(d)** A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

**(e)** If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage to the extent as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

**(f)** Whenever an overseas voter files an application for a primary election absentee ballot under this section and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter.

SECTION 23. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record **all of the following:**

(1) The voter's name.

(2) The date the application is received.



- (3) The date the ballot is ~~mailed or delivered~~ sent to the voter.
- (4) If mailed, the address to which the ballot is sent.
- (5) **If transmitted by fax, the fax number to which the ballot is faxed.**
- (6) The date the ballot is marked before the clerk or otherwise received from the voter. ~~and~~
- ~~(6)~~ (7) Any other information that is necessary or advisable.

SECTION 24. IC 3-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 18. (a) If a voter is ~~entitled to vote an absentee ballot, satisfies any of the following~~, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) **The voter will be absent from the county on election day.**
- (2) **The voter will be absent from the precinct of the voter's residence on election day because of service as:**
  - (A) a precinct election officer under IC 3-6-6;
  - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
  - (C) a challenger or pollbook holder under IC 3-6-7; or
  - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) **The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.**
- (4) **The voter is a voter with disabilities.**
- (5) **The voter is an elderly voter.**
- (6) **The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.**
- (7) **The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.**

(b) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(c) In addition to the ballot mailed under subsection (b), the county election board shall mail a special absentee ballot for

- ~~(1) absent uniformed services voters; and~~
- ~~(2) overseas voters.~~

~~who will be outside of the United States on general election day:~~

(d) The ballot described in subsection (c):

- (1) must be mailed:
  - (A) on the day of the receipt of the voter's application; or
  - (B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

SECTION 25. IC 3-11-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. Each circuit court clerk shall **do both of the following**:

- (1) Keep a separate absentee ballot record for each precinct in the county. ~~and~~
- (2) Certify to each inspector, at the time that the absentee ballots are delivered, **all the following**:
  - (A) The number of absentee ballots ~~delivered or mailed sent~~ to each absentee voter.
  - (B) The number of absentee ballots marked before the clerk. ~~and~~
  - (C) The names of the voters to whom the ballots were ~~delivered or mailed sent~~ or who marked ballots in person."

Page 10, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 31. IC 3-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, **except as provided**

**in subsection (b), do the following**:

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope. ~~and~~
- (6) Do one (1) of the following:
  - (A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.
  - (B) Deliver the envelope to the county election board in person.
  - (C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5.

**(b) A voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax shall do the following upon receipt of an absentee ballot transmitted by fax:**

- (1) **Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.**
- (2) **Fold each ballot received from the voter separately so as to conceal the marking.**
- (3) **Enclose each ballot in a blank absentee ballot envelope.**
- (4) **Securely seal the envelope.**
- (5) **Mark on the envelope: "Absentee Ballot Received by Fax".**
- (6) **Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.**

**(c) Except as otherwise provided in this title, absentee ballots received by fax shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.**

SECTION 32. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

**(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6.** The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

**(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6.** The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

~~(b)~~ **(d)** If a member of the absentee voter board questions whether a signature on a ballot envelope **or transmitted affidavit** is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 33. IC 3-11-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is not genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "The county election board has questioned the genuineness of the signature of this voter." These ballots shall be delivered to the polls on election day under section 12 of this chapter with instructions to verify the voter's signature under section 15 of this chapter.

SECTION 34. IC 3-11-10-6 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "Signature Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.

SECTION 35. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 36. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail **or fax** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 37. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall **do all of the following**:

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name. ~~and~~
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit attached to the ballot envelope**.

SECTION 38. IC 3-11-10-17, AS AMENDED BY P.L.38-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that **any of the following applies, a ballot may not be accepted or counted**:

- (1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:
  - (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 26 of this chapter;
  - (B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or
  - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.**
- (7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~
- (9) The ballot has been challenged and not supported.

~~then the ballots may not be accepted or counted:~~

- (b) Subsection (c) applies whenever a voter with a disability is

unable to make a signature:

- (1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or
- (2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:
  - (A) in the records of the county voter registration office; or
  - (B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

- (1) the absentee voter board under section 25(b) of this chapter;
- (2) a member of the voter's household; or
- (3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 39. IC 3-11-10-24, AS AMENDED BY P.L.38-1999, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 24. (a) Except as provided in subsection (b), ~~each a voter entitled to vote by absentee ballot who satisfies any of the following~~ is entitled to vote by mail:

- (1) **The voter will be absent from the county on election day.**
- (2) **The voter will be absent from the precinct of the voter's residence on election day because of service as:**
  - (A) a precinct election officer under IC 3-6-6;
  - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
  - (C) a challenger or pollbook holder under IC 3-6-7; or
  - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) **The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.**
- (4) **The voter is a voter with disabilities.**
- (5) **The voter is an elderly voter.**
- (6) **The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.**
- (7) **The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.**

(b) A voter with disabilities who:

- (1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and
- (2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

- (1) section 1.5 of this chapter; or
- (2) section 33 of this chapter.

SECTION 40. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 25. (a) ~~Voters~~ **A voter who are entitled to vote** votes by absentee ballot because of:

- (1) illness or injury; or
- (2) caring for a confined person at a private residence; ~~under IC 3-11-4-1~~ and who ~~are~~ **is** within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:

- (A) the confined voter is unavailable at the time of the

board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

(1) agreed to by the board and the voter; and

(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

SECTION 41. IC 3-11-10-26, AS AMENDED BY P.L.167-2001, SECTION 1, AND P.L.199-2001, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 26.

(a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot ~~may vote by absentee ballot~~ before an absentee voter board:

(1) in the office of the circuit court clerk; or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(e) Notwithstanding subsection (d), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day."

Page 11, delete lines 1 through 37, begin a new paragraph and insert:

**"(b) A voting system that has the ability must demonstrate to the voter whether any of the following apply to the voter's ballot:**

**(1) The voter has failed to cast votes for as many candidates as the voter is entitled to vote for an office.**

**(2) The voter has cast votes for too many candidates for an office.**

**(3) The voter has failed to cast a vote on a public question.**

**(4) The voter has cast votes both in favor of and in opposition to a public question.**

**(c) The components of a voting system that provide information to the voter under subsection (b) may be separate from the components of the voting system the voter uses to record the voter's votes."**

Page 11, line 38, delete "(e)" and insert "(d)".

Page 11, line 38, delete "(f)" and insert "(e)".

Page 11, line 41, delete "(f)" and insert "(e)".

Page 11, line 42, delete "(e)" and insert "(d)".

Page 12, between lines 2 and 3, begin a new paragraph and insert: "SECTION 44. IC 3-11.5-2-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. An absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:

(1) sent by United States mail addressed to the voter;

(2) transmitted by fax to a number provided by the voter; or

(3) personally given to the voter.

SECTION 45. IC 3-11.5-4-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. Each circuit court clerk shall do the following:

(1) Keep a separate absentee ballot record for each precinct in the county.

(2) Certify to each inspector or the inspector's representative, at the time that the ballots and supplies are delivered under IC 3-11-3, the names of the voters:

(A) to whom absentee ballots were ~~delivered or mailed sent~~ or who marked ballots in person; and

(B) whose ballots have been received by the county election board under IC 3-11-10.

SECTION 46. IC 3-11.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. If a county election board finds that the signature on a ballot envelope ~~or transmitted affidavit~~ is not genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine."

SECTION 47. IC 3-11.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope ~~or transmitted affidavit~~ is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot, in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on election day under IC 3-11.5."

SECTION 48. IC 3-11.5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Each county election board shall certify the names of voters:

(1) to whom absentee ballots were ~~delivered or mailed sent~~ or who marked ballots in person; and

(2) whose ballots have been received by the board under this chapter;

after the certification under section 1 of this chapter and not later than noon on election day.

(b) The county election board shall have the certificates described in subsection (a) delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on election day.

SECTION 49. IC 3-11.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. (a) Upon delivery of the ~~certificate~~ **certificates** under section 8 of this chapter to a precinct election board, the inspector shall mark the poll list in the presence of the poll clerks. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list ~~and attached the certificates~~ under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

(b) If a person listed in the certificate has voted in person at the polls before the delivery of the certificate, the inspector shall initial the voter's name on the certificate in the presence of both poll clerks. The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector initialed the names of voters under this subsection in the presence of both poll clerks.

(c) The inspector shall then deposit:

(1) the certificate prepared under section 1 of this chapter;

(2) the certificate prepared under section 8 of this chapter; and

(3) any challenge affidavit executed by a qualified person under section 16 of this chapter;

in an envelope in the presence of both poll clerks.

(d) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

(e) The couriers shall immediately return the envelope described in subsection (c) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a

statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier.

SECTION 50. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail **or fax** after noon on election day are considered as arriving too late and may not be counted.

SECTION 51. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit.**

SECTION 52. IC 3-11.5-4-13, AS AMENDED BY P.L.38-1999, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that **any of the following applies, the ballots shall be rejected:**

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
  - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-26;
  - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
  - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.**
- (7) The ballot envelope contains more than one (1) ballot of any kind.
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. **or**
- (9) The ballot has been challenged and not supported.

**the ballots shall be rejected:**

(b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote."

Page 21, after line 34, begin a new paragraph and insert:

"SECTION 57. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2003]: IC 3-11-4-9; IC 3-11.5-4-25; IC 3-11.5-4-26; IC 3-11.5-4-27."

Renumber all SECTIONS consecutively.

(Reference is to HB 1224 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 14, nays 0.

KROMKOWSKI, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1225, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1242, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 3.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1246, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-1-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) This section applies to public work contracts in excess of one hundred thousand dollars (\$100,000) for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway rights-of-way. This section also applies to a lessor corporation qualifying under IC 21-5-11 or IC 21-5-12 or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

(b) A board that enters into a contract for public work, and a contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. ~~Either the board or At the discretion of the contractor, or both, shall place the retainage shall be held either by the board or shall be placed in an escrow account, with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and:~~

- (1) the board and the contractor; or
- (2) the subcontractor and the contractor.

**The board shall not be required to pay interest on the amounts of retainage that it holds under this section.**

(c) To determine the amount of retainage to be withheld, the board shall:

- (1) withhold no more than ten percent (10%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or
- (2) withhold no more than five percent (5%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) of this section shall be withheld until those items are completed.

- (d) The escrow agreement must contain the following provisions:
  - (1) The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.

(2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.

(3) The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

(e) The contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor. The performance bond must specify that:

- (1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;
- (2) a defect in the public work contract; or
- (3) a defect in the proceedings preliminary to the letting and awarding of the public work contract;

does not discharge the surety.

(f) ~~The board or escrow agent shall pay the contractor shall be paid in full, including all escrowed principal and escrowed income, by the board and escrow agent,~~ within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. **Payment by the escrow agent shall include all escrowed principal and escrowed income.** If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion.

(g) Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor.

(h) This subsection applies to public work contracts of less than two hundred fifty thousand dollars (\$250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection.

(Reference is to HB 1246 as introduced.)  
and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

KUZMAN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1252, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, after "physician" insert ":

(A)".

Page 1, line 9, after "activity" insert "; or

**(B) the person who is legally responsible for making health related decisions for the individual with a disability;"**.

Page 1, line 9, beginning with "is" begin a new line block

indented.

Page 2, line 26, after "division" insert **"and any organization designated under section 11 of this chapter"**.

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 3. IC 12-10-17-21, AS ADDED BY P.L.255-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. This chapter expires July 1, ~~2003~~ 2007.

SECTION 4. IC 16-25-3-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. If, in the opinion of the attending physician, a registered nurse who is employed by a hospice is capable of training or instructing individuals who will perform a specific medical activity, including activities that require the penetration of the skin or body orifice, and the nurse:**

- (1) has trained and instructed an individual in the performance of the medical activity; and**
- (2) has delegated the performance of the medical activity to the individual;**

**the individual may perform that medical activity for patients of the hospice while the individual is employed by the hospice.**

SECTION 5. IC 16-27-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. If, in the opinion of the attending physician, a registered nurse who is employed by a home health agency is capable of training or instructing individuals who will perform a specific medical activity, including activities that require the penetration of the skin or body orifice, and the nurse:**

- (1) has trained and instructed an individual in the performance of the medical activity; and**
- (2) has delegated the performance of the medical activity to the individual;**

**the individual may perform that medical activity for patients of the home health agency while the individual is employed by the home health agency."**

Page 3, line 42, delete "and".

Page 3, after line 42, begin a new line block indented and insert:

**"(2) the method of payment for the fiscal agent who provides authorized services under IC 12-10-17; and"**.

Page 4, line 1, delete "(2)" and insert "(3)".

Renumber all SECTIONS consecutively.

(Reference is to HB 1252 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

C. BROWN, Chair

Report adopted.

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1257, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 5 through 42.

Page 3, delete lines 1 through 18.

Page 4, delete line 30.

Renumber all SECTIONS consecutively.

(Reference is to HB 1257 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

KUZMAN, Chair

Report adopted.

#### RESOLUTIONS ON FIRST READING

##### House Concurrent Resolution 19

Representative Leuck introduced House Concurrent

## Resolution 19:

A CONCURRENT RESOLUTION urging the commissioner of the Indiana Department of Transportation to name the newly constructed bridge on U.S. 421 between White and Carroll counties the Captain Bill Luse Bridge.

*Whereas, White and Carroll counties are hereby requesting that the newly constructed bridge on U.S. 421 south of Monticello, Indiana, joining White and Carroll counties be named the Captain Bill Luse Bridge;*

*Whereas, Through the generous donation of his 135 foot excursion boat, the Madam Carroll, whose berth is at the site of the newly constructed bridge, Captain Bill Luse has donated countless hours to a number of community organizations for fund-raising events;*

*Whereas, The Madam Carroll has been the host facility for White County United Way fund-raising events for 18 years and has hosted the White and Carroll County Junior Leaders fund-raisers for 22 years;*

*Whereas, The Madam Carroll has also been home to a yearly cruise for the White County Council on Aging and the surrounding counties' councils on aging;*

*Whereas, Nursing home residents have regularly been guests for a cruise on the Madam Carroll on beautiful Lake Freeman; and*

*Whereas, The generosity of Captain Bill Luse and his wife, Jane, has improved the lives of the residents of White and Carroll counties immeasurably: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to urge the commissioner of the Indiana Department of Transportation to name the newly constructed bridge on U.S. 421 south of Monticello, Indiana, the Captain Bill Luse Bridge.

SECTION 2. That Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Captain Bill Luse and his wife, Jane, and the commissioner of the Indiana Department of Transportation.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Weatherwax, Alting, and Hershman.

The House recessed until the fall of the gavel.

## RECESS

The House reconvened at 1:15 p.m. with the Speaker in the Chair.

## HOUSE BILLS ON SECOND READING

## House Bill 1004

Representative Bauer called down House Bill 1004 for second reading. The bill was read a second time by title.

HOUSE MOTION  
(Amendment 1004-12)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Replace the effective dates in SECTIONS 62 through 80 with "[EFFECTIVE JULY 1, 2003]".

Page 7, line 15, delete "franchise tax" and insert "**activity fee**".

Page 11, line 8, strike "(a)".

Page 11, line 9, strike "the following purposes:" and insert "**distributions under section 5 of this chapter.**".

Page 11, strike lines 10 through 38.

Page 31, delete lines 40 through 42, begin a new paragraph and insert:

**"Sec. 1. Notwithstanding any provision in the 2002 Real**

**Property Assessment Manual and Real Property Assessment Guidelines for 2002-Version A, incorporated by reference in the rules of the local government finance commissioner, as codified at 50 IAC 2.3-1-2, a county property tax assessment board of appeals or the Indiana board shall consider all evidence relevant to the assessment of residential rental property regardless of whether the evidence was submitted to the township assessor before the assessment of the property."**

Page 32, delete lines 1 through 13.

Page 34, line 26, delete "and property taxes first due and" and insert ".".

Page 34, delete lines 27 through 28.

Page 49, between lines 3 and 4, begin a new paragraph and insert:

**"SECTION 41. IC 6-1.1-20.9-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. Not later than September 15, 2002, each county auditor shall mail or otherwise distribute a written notice to each individual who is eligible for a homestead credit. The notice shall be distributed to the address of the individual provided in the credit statement filed under section 3 of this chapter or, if the address is incomplete on the credit statement, the tax duplicate or special assessment records. The notice must describe the homestead credit provided to individual under this chapter in substantially the following form:**

**"Your assessing officials are doing a general reassessment of all real property in the county. The reassessment is necessary to comply with Indiana law. The Indiana General Assembly has enacted changes to the homestead credit to substantially reduce the effects that this reassessment may have on your home. In the first year that the reassessment applies, your assessment will be reduced by the basic homestead credit and a supplemental circuit breaker. The basic homestead credit will reduce your total assessment by 15%. The supplemental circuit breaker will reduce any increase in your assessment by 25%. Local services will not be affected by this credit. Local government units will receive a distribution of state tax revenues to replace the amount of this credit."**

Page 75, line 39, delete "BUSINESS FRANCHISE TAX" and insert "**BUSINESS ACTIVITY FEE**".

Page 85, line 35, delete "Franchise Tax" and insert "**Activity Fee**".

Page 85, between lines 41 and 42, begin a new paragraph and insert:

**"Sec. 3. If the taxable net worth of the taxpayer is less than fifty thousand dollars (\$50,000) the tax imposed by this chapter in a taxable year is zero (0)."**

Page 85, line 42, delete "3" and insert "4".

Page 86, line 4, after "is" insert "**greater than fifty thousand dollars (\$50,000) and is**".

Page 86, line 8, delete "4" and insert "5".

Page 86, line 11, after "is" insert "**greater than fifty thousand dollars (\$50,000) and is**".

Page 86, line 15, delete "5" and insert "6".

Page 86, line 15, delete "and" and insert ",".

Page 86, line 15, after "4" insert "**, and 5**".

Page 86, line 29, delete "6" and insert "7".

Page 86, line 29, delete "2 and 3" and insert "**3, 4, and 5**".

Page 87, line 17, delete "franchise".

Page 87, line 22, delete "IC 27-8-8-15;" and insert "**IC 27-8-8-16;**".

Page 87, line 27, delete "Taxes;" and "Fees;".

Page 101, delete lines 17 through 30, begin a new paragraph and insert:

**"(1) Forty percent (40%) of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.**

**(2) Fifty-nine and ~~three hundredths~~ one hundred ninety-two thousandths percent (~~59.03%~~) (59.192%) of the collections shall be paid into the state general fund.**

**(~~3~~) ~~Seventy-six hundredths~~ (2) Six hundred thirty-three thousandths of one percent (~~0.76%~~) (0.633%) of the collections shall be paid into the public mass transportation**

fund established by IC 8-23-3-8.

(4) ~~Four hundredths~~ (3) **Thirty-three thousandths** of one percent (~~0.04%~~) **(0.033%)** of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

(5) ~~Seventeen hundredths~~ (4) **One hundred forty-two thousandths** of one percent (~~0.17%~~) **(0.142%)** of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5."

Page 137, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 129. IC 6-3.1-23.8-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1.7. As used in this chapter, "inventory" has the meaning set forth in IC 6-1.1-3-11."

Page 138, line 15, delete "SIX" and insert "FIVE".

Page 138, delete lines 17 through 42, begin a new line block indented and insert:

**"STEP ONE: Determine the net ad valorem property taxes paid by the taxpayer in the taxable year on business personal property (excluding inventory) with an assessed value equal to the lesser of:**

**(A) the assessed value of the person's business personal property; or**

**(B) an assessed value of thirty-seven thousand five hundred dollars (\$37,500).**

**STEP TWO: Subtract the assessed value of business personal property (excluding inventory) on which the taxpayer paid ad valorem property taxes in the taxable year from thirty-seven thousand five hundred dollars (\$37,500).**

**STEP THREE: This STEP applies only if the STEP TWO result is greater than zero (0). Determine the net ad valorem property taxes paid by the taxpayer in the taxable year on inventory with an assessed value equal to the lesser of:**

**(A) the assessed value of the person's inventory; or**

**(B) the STEP TWO result.**

**STEP FOUR: If the net ad valorem property taxes paid by the taxpayer in the taxable year on inventory exceeded the amount of net ad valorem property taxes determined under STEP THREE, determine fifty percent (50%) the remaining net ad valorem property taxes paid by the taxpayer in the taxable year on inventory.**

**STEP FIVE: Determine the sum of the STEP ONE, STEP THREE, and STEP FOUR amounts."**

Page 139, delete lines 1 through 8.

Page 171, line 22, delete "fifty-seven" and insert "**eighty-nine**".

Page 171, line 23, delete "(6.57%)" and insert "**(6.89%)**".

Page 171, line 28, delete "Eighty-four" and insert "**Eighty-three**".

Page 171, line 29, delete "five-hundredths" and insert "**seventy-three hundredths**".

Page 171, line 29, delete "(84.05%)" and insert "**(83.73%)**".

Page 171, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 155. IC 6-7-1-29.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2002]: Sec. 29.1. (a) ~~One-third~~ **(1/3) Thirty-two percent (32%)** of the money in the cigarette tax fund is annually appropriated to the department of natural resources.

(b) The department shall use at least two percent (2%) but not more than twenty-one percent (21%) of the money appropriated to it under this section for:

(1) flood control and water resource projects, including multiple-purpose reservoirs; and

(2) applied research related to technical water resource problems.

The department may use the money to plan, design, acquire land for, or construct the projects.

(c) The department shall use at least thirty-six percent (36%) of the money appropriated to it under this section to construct, reconstruct, rehabilitate, or repair general conservation facilities or to acquire

land.

(d) The department shall use at least forty-three percent (43%) of the money appropriated to the department under this section for soil conservation and lake and river enhancement under IC 14-32.

SECTION 156. IC 6-7-1-30.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2002]: Sec. 30.1. (a) ~~Two-thirds~~ **(2/3) Sixty-eight percent (68%)** of the money in the cigarette tax fund is annually appropriated to the cities and towns of this state and to certain local governmental entities.

(b) The amount which is allocated to each city or town under this section equals the product of:

(1) the total amount appropriated under subsection (a); multiplied by

(2) a fraction, the numerator of which is the population of the city or town, and the denominator of which is the total population of all the cities and towns of Indiana.

(c) The auditor of state shall calculate and distribute the amount allocated to each city or town under this section on or before June 1 and December 1 of each year. To make these semiannual distributions, the auditor of state shall issue warrants drawn on the cigarette tax fund to the officials designated in subsection (d) or (e).

(d) For a consolidated city, or a city or town which is located in the same county as the consolidated city, the auditor of state shall issue a warrant for:

(1) three-fourteenths (3/14) of the money allocated to the city or town under subsection (b) to the fiscal officer of the city or town; and

(2) the remaining eleven-fourteenths (11/14) of the money to the treasurer of that county.

The fiscal officer of the city or town shall deposit the money distributed to him under this subsection in the city's or town's general fund. The county treasurer shall annually deposit three hundred fifty thousand dollars (\$350,000) which he receives under this subsection in the capital improvement bond fund of the county. The remainder of the money which the county treasurer receives under this subsection is appropriated to the department of transportation of the consolidated city. The county treasurer shall serve as custodian of the money so appropriated to the department.

(e) For a city or town which is not located in the same county as a consolidated city, the auditor of state shall issue a warrant for the total amount allocated to the city or town under subsection (b) to the fiscal officer of the city or town. The fiscal officer shall deposit three-fourteenths (3/14) of the money in the city's or town's general fund, and he shall deposit the remaining eleven-fourteenths (11/14) of the money in the city's or town's cumulative capital improvement fund."

Page 172, line 26, delete "franchise tax" and insert "**business activity fee**".

Page 175, delete lines 27 through 42.

Page 176, delete lines 1 through 17.

Page 178, line 1, delete "Each month, after making the allocations to the department of".

Page 178, delete lines 2 through 24.

Page 178, line 25, delete "(7)".

Page 178, run-in lines 1 through 27.

Page 178, line 28, delete "(5) (8)" and insert "(5)".

Page 178, line 30, delete "(6) (9)" and insert "(6)".

Page 178, line 28, delete "(7) (10)" and insert "(7)".

Page 178, line 36, delete ",".

Page 179, line 8, delete "3(7) 3(8)" and insert "3(7)".

Page 178, line 37, delete 37, delete "other than subdivisions (4) through (6)".

Page 192, line 2, delete ":-".

Page 192, line 3, delete "(A)".

Page 192, line 3, delete ", except that these services:".

Page 192, delete lines 4 through 6.

Page 192, line 7, delete "(19) years of age;".

Page 192, line 8, delete "(B)".

Page 192, run-in lines 2 through 8.

Page 239, line 24, delete "minus" and insert "**plus**".

Page 239, line 25, delete "the sum of:".

Page 239, delete line 26.



Page 239, line 27, delete "(ii)".

Page 239, run-in lines 25 through 29.

Page 245, line 13, delete "franchise taxes," and insert "**activity fees,**".

Page 245, line 38, delete "franchise taxes," and insert "**activity fees,**".

Page 250, line 31, delete "franchise taxes," and insert "**activity fees,**".

Page 251, line 37, delete "franchise taxes," and insert "**activity fees,**".

Page 300, line 30, after "2002]" insert "IC 4-12-9-4".

Page 301, line 40, delete ";".

Page 301, run-in lines 39 through 42.

Page 302, line 4, delete "; minus" and insert ".".

Page 302, line 2, strike "result of:".

Page 302, line 3, strike "(i) the".

Page 302, run-in lines 1 through 4.

Page 302, line 5, delete "(ii)", begin a new line block indented and insert:

**"STEP THREE: Determine the result of the STEP ONE or STEP TWO amount as applicable minus".**

Page 302, line 7, delete "THREE:" and insert "**FOUR:**".

Page 302, line 7, delete "ONE OR" and insert "**THREE**".

Page 302, line 8, delete "STEP TWO".

Page 302, line 8, delete ", as applicable,".

Page 302, line 9, delete "FOUR:" and insert "**FIVE:**".

Page 302, line 9, delete "THREE" and insert "**FOUR**".

Page 305, line 4, delete "\$852,965" and insert "**\$1,521,287**".

Page 305, line 8, delete "\$2,998,265" and insert "**\$432,785**".

Page 306, delete lines 13 through 18, begin a new paragraph and insert:

**"SECTION 304. [EFFECTIVE UPON PASSAGE] ( a ) Notwithstanding P.L.291-2001, SECTION 10, FOR THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, AUTO EMISSIONS TESTING PROGRAM, Other Operating Expense for the biennium is \$0.0 and not \$14,987,334.**

**(b) Notwithstanding P.L.291-2001, SECTION 10, there is appropriated from the underground petroleum storage tank excess liability trust fund (IC 13-23-7-1) \$14,987,334 to the DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, AUTO EMISSIONS TESTING PROGRAM for Other Operating Expense for the period beginning July 1, 2001, and ending June 30, 2003. Any money spent from the appropriation from the general fund for the auto emissions testing program for other operating expense shall be refunded to the general fund from the underground petroleum storage and excess liability trust fund."**

Page 306, delete lines 37 through 41.

Page 310, between lines 10 and 11, begin a new paragraph and insert:

**"SECTION 313. [EFFECTIVE JULY 1, 2002] (a) This SECTION applies to the following credits and deductions:**

**(1) Standard deduction under IC 6-1.1-12-37.**

**(2) Multifamily dwelling complex deduction under IC 6-1.1-12-42.**

**(3) Increased homestead credits under IC 6-1.1-20.9-2 and IC 6-1.1-20.9-2.5.**

**(b) The deductions under subsection (a) initially apply to property taxes first due and payable in 2004.**

**SECTION 314. [EFFECTIVE JULY 1, 2003] (a) The appropriation FOR THE BUREAU OF MOTOR VEHICLES, Motor Vehicle Highway Account (IC 8-14-1), Personal Services for Fiscal Year 2002-2003 is \$48,132,557 and not \$68,132,557. However, the Bureau of Motor Vehicles may supplement its appropriation from the Motor Vehicle Highway Account with additional revenue generated by fees charged in license branches.**

**(b) Thirty-four million eight hundred thousand dollars (\$34,800,000) that would otherwise be distributed to the state highway fund under IC 8-14-1-3 shall be used to fund the appropriation for the state police department under IC 8-14-1-3."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 22, 2002.)

BAUER

Motion prevailed.

# HOUSE MOTION (Amendment 1004-6)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Replace the effective date in SECTION 96 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective date in SECTION 97 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective date in SECTION 98 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective date in SECTION 99 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective date in SECTION 100 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective date in SECTION 101 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective date in SECTION 125 with "[EFFECTIVE JANUARY 1, 2003]".

Replace the effective dates in SECTIONS 128 through 131 with "[EFFECTIVE JANUARY 1, 2003]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 4-3-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "Indiana small business development corporation" or "corporation" refers to the corporation established under this section.**

**(b) The governor may request, on behalf of the state, the establishment of a private not-for-profit corporation to carry out the purposes of this chapter. If:**

**(1) such a corporation is established;**

**(2) the corporation satisfies the conditions imposed by section 2 of this chapter; and**

**(3) the governor certifies the corporation;**

**the corporation may perform the functions provided by section 3 of this chapter. Before certification by the governor, the corporation must conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment upon the articles of incorporation, bylaws, and methods of operation of the corporation. Notice of the hearing must be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b).**

**(c) The corporation is part of the economic development corporation under 4-3-13.7. The articles of incorporation and bylaws of the corporation shall be amended to reflect that the board of the corporation is advisory to the Indiana economic development corporation.**

**SECTION 2. IC 4-3-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The articles of incorporation and bylaws of the Indiana small business development corporation must provide that:**

**(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by encouraging the organization and development of new business enterprises, including technologically oriented enterprises;**

**(2) the board of directors of the corporation is composed of:**

**(A) ~~the lieutenant governor or~~ the lieutenant governor's designee;**

**(B) two (2) persons appointed by the governor from recommendations provided by statewide business organizations;**

**(C) two (2) persons appointed by the governor to represent local host organizations of the small business development center network; and**

**(D) four (4) persons appointed by the governor, who must have experience in business, finance, education, entrepreneurship, or technology development;**

**(3) the governor shall appoint one (1) of the members of the board of directors to serve as chairman of the board at the**



pleasure of the governor shall elect one (1) of the members to serve as chairperson;

(4) the corporation may receive money from any source, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(5) **subject to approval of the economic development corporation**, the corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 3 of this chapter;

(6) any changes in the articles of incorporation or bylaws must be approved by the **governor economic development corporation**;

(7) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

(8) the annual report shall include detailed information on the structure, operation, and financial status of the corporation;

(9) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

(10) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) Not more than five (5) of the members of the board of directors of the corporation may be members of the same political party.

(c) **The corporation is part of the economic development corporation under 4-3-13.7. The articles of incorporation and bylaws of the corporation shall be amended to reflect that the board of the corporation is advisory to the Indiana economic development corporation.**

SECTION 3. IC 4-3-13.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

#### **Chapter 13.7. Economic Development Corporation**

**Sec 1. As used in this chapter, "corporation" refers to the economic development corporation established by section 2 of this chapter.**

**Sec 2. (a) There is established a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions, to be known as the economic development corporation.**

**(b) The corporation is composed of the following thirteen (13) members, none of whom may currently be serving as members of the general assembly:**

**(1) One (1) person appointed by the governor who must be employed in or retired from the private or nonprofit sector.**

**(2) One (1) person appointed by the lieutenant governor who must be employed in or retired from the private or nonprofit sector.**

**(3) One (1) person appointed by the speaker of the house of representatives who must be employed in or retired from the private or nonprofit sector.**

**(4) One (1) person appointed by the minority leader of the house of representatives who must be employed in or retired from the private or nonprofit sector.**

**(5) One (1) person appointed by the president pro tempore of the senate who must be employed in or retired from the private or nonprofit sector.**

**(6) One (1) person appointed by the minority leader of the senate who must be employed in or retired from the private or nonprofit sector.**

**(7) One (1) person appointed by the president of Indiana University who must be employed in or retired from the private or nonprofit sector or academia.**

**(8) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia.**

**(9) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia.**

**(10) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia.**

**(11) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia.**

**(12) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or nonprofit sector or academia.**

**(13) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia.**

**Sec. 3. Appointments to the corporation are for terms of four (4) years. Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.**

**Sec. 4. (a) The members shall elect a chairperson from among the members.**

**(b) The members of the corporation are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the corporation shall receive reimbursement for actual and necessary expenses on the same basis as state employees.**

**Sec. 5. A majority of members appointed to the commission constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of the members appointed to the commission is necessary for any action to be taken by the corporation. Members may vote by written proxy delivered in advance to any other member who is present at the meeting.**

**Sec. 6. Meetings of the corporation shall be held at the call of the chairperson or whenever any three (3) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the corporation.**

**Sec. 7. (a) The corporation may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.**

**(b) The corporation shall determine qualifications, duties, compensation, and terms of service for persons designated in subsection (a).**

**(c) Employees of the corporation are not employees of the state.**

**Sec. 8. The corporation is granted all powers necessary or appropriate to carry out and effectuate the corporation's public and corporate purposes under this chapter.**

**Sec. 9. The purpose of the corporation is to improve the quality of life for the citizens of Indiana by encouraging:**

**(1) the diversification of Indiana's economy;**

**(2) the creation of new jobs;**

**(3) the retention of existing jobs;**

**(4) the growth and modernization of existing industry; and**

**(5) the promotion of the state.**

**Sec. 10. The corporation shall be responsible for overseeing the operations of the Indiana small business development corporation under IC 4-3-12-1 and the Indiana economic development council under IC 4-3-14.**

**Sec. 11. The corporation may incur debt. Debt incurred by the corporation does not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes.**

SECTION 4. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

**(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:**

**(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing**

basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

(A) ~~the governor;~~

(B) ~~(A) a designee of the lieutenant governor;~~

(C) ~~the chief operating officer of the corporation;~~

(D) ~~the chief operating officer of the corporation for Indiana's international future; and~~

(E) ~~(B) additional eight (8) persons appointed by the governor, not more than four (4) of whom may be of the same political party, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;~~

(3) ~~the governor shall serve as members shall elect a chairman of the board of the corporation, and the lieutenant governor shall serve as the members, with the approval of the economic development corporation, shall select an chief executive officer executive director of the corporation;~~

(4) ~~the governor members shall appoint elect as vice chairman of the board a member of the board engaged in private enterprise;~~

(5) ~~the lieutenant governor executive director of the corporation shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer corporation;~~

(6) ~~the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);~~

(7) ~~(6) the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;~~

(8) ~~(7) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor board of the economic development corporation;~~

(9) ~~(8) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;~~

(10) ~~(9) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and~~

(11) ~~(10) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.~~

(b) The corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

SECTION 5. IC 4-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" shall mean the department of ~~commerce~~ **tourism and community development** provided for by this chapter.

"Director" shall mean the director of the department.

SECTION 6. IC 4-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. There is hereby created a state department to be known as the department of ~~commerce~~ **tourism and community development**. The lieutenant governor, by virtue of his office, shall serve as director of the department and commissioner of agriculture, and he shall receive no additional salary in these capacities."

Page 5, line 19, delete "21st Century Revenue Stabilization Plan"

and insert **"Indiana Tax Restructuring Fund"**.

Page 5, delete lines 20 through 39.

Page 5, line 40, delete "9." and insert **"1."**.

Page 5, line 40, after "The" insert **"Indiana"**.

Page 5, line 40, delete "relief" and insert **"restructuring"**.

Page 5, line 41, after "of the" insert **"Indiana"**.

Page 5, line 41, delete "relief" and insert **"restructuring"**.

Page 5, line 42, delete "to:" and insert **"to offset the income tax credits, property tax credits, and property tax replacement credits established or increased by the General Assembly in 2002."**.

Page 6, delete lines 1 through 20.

Page 6, line 21, after "The" insert **"Indiana"**.

Page 6, line 21, delete "relief" and insert **"restructuring"**.

Page 6, line 23, after "in the" insert **"Indiana"**.

Page 6, line 23, delete "relief" and insert **"restructuring"**.

Page 6, line 26, after "the" insert **"Indiana"**.

Page 6, line 26, delete "relief" and insert **"restructuring"**.

Page 6, line 28, after "in the" insert **"Indiana"**.

Page 6, line 28, delete "relief" and insert **"restructuring"**.

Page 6, delete lines 30 through 42, begin a new paragraph and insert:

"SECTION 6. IC 4-10-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 21. State Fiscal Year Spending Limit**

Sec. 1. (a) This chapter does not apply to the extent that payments for pensions, including accrued unfunded liability, and final court judgments on which the state is obligated to pay exceed the spending limits imposed by this chapter.

(b) This chapter does not apply to the extent that money expended from a reserve fund exceeds the spending limits imposed by this chapter if the initial transfer of the money into the reserve fund was included in the fiscal year spending of a previous state fiscal year.

Sec. 2. As used in this chapter, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the U.S. City Average for All Items, or its successor index.

Sec. 3. As used in this chapter, "fiscal year spending" means all state governmental expenditures and reserve increases in a state fiscal year, except expenditures from the following:

(1) Money deposited into the excess tax fund established by section 11 of this chapter.

(2) Money received as gifts.

(3) Federal funds.

(4) Money collected for another government.

(5) Pension contributions by employees and pension fund earnings.

(6) Money received from damage awards.

(7) Money received from property sales.

(8) Money received from settlement awards.

(9) State dedicated funds.

Sec. 4. As used in this chapter, "inflation" means, with respect to any fiscal year, the lesser of:

(1) the percentage change between:

(A) the quotient of:

(i) the sum of the CPI for the twelve (12) months ending in April of the calendar year before the adoption of the state biennial budget; divided by

(ii) twelve (12); and

(B) the quotient of:

(i) the sum of the CPI for the twelve (12) months ending in April of the calendar year before the calendar year described in clause (A); divided by

(ii) twelve (12); or

(2) six percent (6%).

Sec. 5. As used in this chapter, "maximum annual percentage change in fiscal year spending" means the sum of the following:

(1) Inflation with respect to the fiscal year in question, as calculated under section 4 of this chapter.

(2) The annual percentage rate of change in population.

## (3) One percent (1%).

Sec. 6. As used in this chapter, "population" means:

- (1) the number of residents of the state as estimated by the United States Bureau of the Census each year; or
- (2) the number of residents of the state as counted by the United States Bureau of the Census in a decennial census; whichever is determined later.

Sec. 7. As used in this chapter, "state fiscal year" means the twelve (12) month period beginning July 1 in a calendar year.

Sec. 8. Before July 1, 2005, and each odd-numbered year thereafter, the department of state revenue shall:

- (1) certify to the governor and the legislative council:
  - (A) the inflation amount calculated under section 4 of this chapter; and
  - (B) the annual percentage rate of change in population; and
- (2) release the information certified under subdivision (1) to the general public.

Sec. 9. (a) This subsection applies to a state fiscal year beginning July 1, 2003. The state may not increase fiscal year spending more than four percent (4%) above state fiscal spending for the state fiscal year ending June 30, 2003.

(b) This subsection applies to a state fiscal year beginning July 1, 2004. The state may not increase fiscal year spending more than four percent (4%) above state fiscal spending for the state fiscal year ending June 30, 2004.

(c) This subsection applies to a state fiscal year beginning July 1, 2005, and each odd-numbered year thereafter. The state may not increase fiscal year spending more than the maximum annual percentage change in fiscal year spending applicable to that state fiscal year.

(d) This subsection applies to a state fiscal year beginning July 1, 2006, and each even-numbered year thereafter. State fiscal year spending may not exceed the amount determined under the following STEPS:

STEP ONE: Determine the amount of state fiscal year spending permitted under subsection (c).

STEP TWO: Multiply the STEP ONE amount by the maximum annual percentage change in fiscal year spending applicable to the previous state fiscal year.

STEP THREE: Add the amount resulting from STEP TWO to the STEP ONE amount.

(e) If the general assembly considers it necessary to spend beyond the spending limit imposed by this chapter, the general assembly may do so by adopting a concurrent resolution approved by a majority of both houses of the general assembly. The resolution must state:

- (1) that the general assembly desires to budget and spend more funds than permitted by this chapter; and
- (2) the reasons necessitating the excess spending.

Upon passage of such a resolution, a cause of action may not be initiated under section 12 of this chapter if the excess spending results from passage of the resolution and the reasons for the excess spending stated in the resolution.

Sec. 10. If revenue from sources not excluded from fiscal year spending exceeds the spending limit imposed under this chapter for that state fiscal year, the excess must be deposited into the excess tax fund established under section 11 of this chapter to be used for property tax relief programs enacted by the general assembly.

Sec. 11. (a) The excess tax fund is established for the purpose of providing property tax relief under programs enacted by the general assembly. The fund shall be administered by the treasurer of state.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 12. This chapter may be enforced in a private individual or class action suit. Successful plaintiffs are allowed costs and reasonable attorney's fees. The state may recover costs and reasonable attorney's fees under this chapter only if a suit against it is ruled frivolous. Revenue collected illegally, kept illegally, or spent illegally for the four (4) state fiscal years preceding the date that the suit is filed shall be deposited in the excess tax fund commencing for each state fiscal year on the date the state exceeds the spending limitation imposed for that state fiscal year under this chapter."

Delete pages 7 through 9.

Page 10, delete lines 1 through 3.

Page 20, line 7, delete "state general fund" and insert "Indiana tax restructuring fund established under IC 4-10-20."

Page 23, line 2, delete "state" and insert "Indiana tax restructuring fund established under IC 4-10-20."

Page 23, delete line 3.

Page 23, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 20. IC 5-10.2-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.5. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary for all funds under its control, subject to the limitations and restrictions set forth in IC 5-10.2-2-18, IC 5-10.3-5-3 and IC 21-6.1-3-9.

SECTION 21. IC 5-10.2-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. (a) As used in this section, "alternative investment" means capital invested in the privately held equity or debt assets of a domestic or international private business and includes investment in any of the following:

- (1) Unlisted or illiquid common and preferred stock.
- (2) Venture capital.
- (3) Corporate buyouts and acquisitions.
- (4) Restructuring, recovery, and hedge funds.
- (5) Limited and blind pool partnerships.
- (6) Special situation and private finance investments.
- (7) Limited liability companies.
- (8) Group trusts.
- (9) Unsecured, undersecured, subordinated senior, or convertible loans or debt securities of privately held companies.
- (10) Real estate investment trusts, mortgages, "turn around" situations, commercial leases, and joint ventures.
- (11) Commodity trading.

(b) If the board decides to allocate part of the fund assets to alternative investments, the board shall invest at least twenty percent (20%) of the amount allocated to alternative investments in alternative investments in Indiana, except as provided in subsection (c).

(c) The board is not required to make the entire twenty percent (20%) investment referred to in subsection (b) if the board exercising financial and fiduciary prudence determines that sufficient appropriate alternative investments are not available in Indiana.

(d) If the board does not invest the entire twenty percent (20%) required by subsection (b) because the board makes a determination described in subsection (c), the board may not invest the amount that the board was not able to invest in alternative investments in Indiana in alternative investments outside Indiana. The board may invest the amount that the board was not able to invest in alternative investments in Indiana in other investments that the board determines are financial and fiduciary prudent.

SECTION 22. IC 5-10.3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also diversify such investments in accordance with prudent investment standards, subject to the

**limitations and restrictions set forth in IC 5-10.2-2-18.**

(b) The board may invest up to five percent (5%) of the excess of its cash working balance in debentures of the corporation for innovation development subject to IC 30-4-3-3.

(c) The board is not subject to IC 4-13, IC 4-13.6, and IC 5-16 when managing real property as an investment. Any management agreements entered into by the board must ensure that the management agent acts in a prudent manner with regard to the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for management of real property as an investment:

(1) may not exceed a four (4) year term and must be based upon guidelines established by the board;

(2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as utilities, cleaning, maintenance, and minor tenant finish needs;

(3) must establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and

(4) may provide specific guidelines for the board to purchase new properties, contract for the construction or repair of properties, and lease or sell properties without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust."

Page 27, line 1, after "completed." insert **"However, the general reassessment scheduled to begin under this subsection:**

**(1) on July 1, 2000, shall:**

**(A) be completed on or before March 1, 2003; and**

**(B) be the basis for taxes first due and payable in 2004; and**

**(2) on July 1, 2004, shall:**

**(A) begin on July 1, 2005;**

**(B) be completed on or before March 1, 2007; and**

**(C) be the basis for taxes first due and payable in 2008."**

Page 27, delete lines 2 through 5.

Page 33, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 30. IC 6-1.1-10-31.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 31.1. A person who:

(1) is required to file a personal property return;

(2) has personal property in a warehouse or a foreign trade zone on the assessment date of any year; and

(3) wishes to claim the exemption provided under section 29, 29.3, 30, or 30.5, or 31.2 of this chapter;

shall report on the person's personal property return, in the manner prescribed by the state board of tax commissioners; department of local government finance, the true tax value of the property for which the exemption is claimed.

SECTION 31. IC 6-1.1-10-31.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 31.2. (a) For purposes of this section, "production inventory" for an assessment date means inventory that is:

(1) not finished goods inventory; and

(2) held on the assessment date for use in the production of the types of finished goods with respect to which the owner or possessor claims exemption for the assessment date:

(A) under section 29(b), 29(c), or 29(d) of this chapter;

(B) under section 30(b), 30(c), or 30(e) of this chapter; or

(C) as property placed in the foreign trade zone

exclusively for export to a foreign country under section 30.5(a)(2) of this chapter.

(b) Production inventory is exempt from property taxation for an assessment date in the amount determined by dividing:

(1) the assessed value of the taxpayer's finished goods inventory that qualifies for exemption from property taxation under the provisions referred to in subsection (a)(2) for the assessment date; by

(2) the total assessed value of the taxpayer's finished goods inventory for the assessment date;

and applying this ratio to the taxpayer's total production inventory for the assessment date. A taxpayer that uses the allocation method shall keep records that adequately establish the validity of the allocation.

(c) A taxpayer who possesses production inventory owned by another person may claim an exemption provided by this section if:

(1) the taxpayer includes the production inventory on the taxpayer's personal property tax return; and

(2) the taxpayer is able to show that the owner of the production inventory would otherwise have qualified for an exemption under this section."

Page 42, delete lines 31 through 42.

Delete pages 43 through 45.

Page 46, delete lines 1 through 29, begin a new paragraph and insert:

"SECTION 39. IC 6-1.1-20.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

#### **Chapter 20.6. Investment Tax Credit**

Sec. 1. As used in this chapter, "assessed value" means the assessed value determined under IC 6-1.1-3.

Sec. 2. As used in this chapter, "business personal property" means tangible property (other than real property) that:

(1) was first reported by the taxpayer on a personal property tax return filed for the assessment date of 2002 or a later year;

(2) was never before used by the taxpayer for any purpose in Indiana;

(3) was acquired in a bona fide, good faith transaction, negotiated at arm's length, between parties under separate ownership and control; and

(4) is being held or used in connection with the production of income and is property for which depreciation is allowed for federal income tax purposes, with a useful life of at least three (3) years.

The term does not include inventory as defined in IC 6-1.1-3-11.

Sec. 3. As used in this chapter, "net ad valorem property taxes" means the amount of property taxes paid by a taxpayer for a particular calendar year after the application of all property tax deductions and property tax credits.

Sec. 4. A taxpayer that purchases business personal property is entitled to a credit against the taxpayer's property tax liability payable in a calendar year for the net ad valorem property taxes on that property payable by the taxpayer by the installment due dates under IC 6-1.1-22-9 in the calendar year with respect to the first or second assessment date the property is subject to assessment under IC 6-1.1. Except as provided in section 5 of this chapter, the amount of the credit is determined as follows:

(1) For a calendar year in which the property tax is payable with respect to the first assessment date the property is subject to assessment under IC 6-1.1, the credit is equal to twenty-five percent (25%) of the net ad valorem property taxes payable on the property in that calendar year.

(2) For a calendar year in which the property tax is payable with respect to the second assessment date the property is subject to assessment under IC 6-1.1, the credit is equal to fifteen percent (15%) of the net ad valorem property taxes payable on the property in that calendar year.

Sec. 5. The credit under this chapter with respect to net property taxes payable on business personal property in calendar years 2004, 2005, and 2006 is determined by

multiplying the credit determined under section 4 of this chapter by the following percentage:

- (1) Twenty-five percent (25%) with respect to net property taxes payable on business personal property in calendar year 2004.
- (2) Fifty percent (50%) with respect to net property taxes payable on business personal property in calendar year 2005.
- (3) Seventy-five percent (75%) with respect to net property taxes payable on business personal property in calendar year 2006.

Sec. 6. A taxpayer that receives a credit for ad valorem property taxes under IC 6-3.1-23.8 is not entitled to a credit under this chapter for personal property with respect to which a credit was granted under IC 6-3.1-23.8.

Sec. 7. A taxpayer that desires to claim the credit provided by section 4 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the business personal property is located. The statement must include the name of the city, town, or township in which the property is located. The statement must be filed during the twelve (12) months before May 11 of the year before the first year for which the person wishes to obtain the credit. The statement applies only for the year for which it is filed.

Sec. 8. The township assessor shall report to the county auditor before February 1 of a calendar year. For each taxpayer that has claimed the credit under section 7 of this chapter, the report shall include the amount of assessed value on which property taxes payable in the calendar year qualify as a credit under this chapter. The county auditor shall determine the amount of the credit for each taxpayer.

Sec. 9 (a) If the county treasurer determines that property taxes for which a credit was granted under this chapter have been reduced, the county treasurer shall bill the taxpayer for the difference between:

- (1) the amount of the credit that was granted under this chapter; and
- (2) the amount of the credit that would have been granted under this chapter if the property tax reduction had been in effect at the time the credit was granted under this chapter.

(b) If the county treasurer determines that the taxpayer has failed to pay any part of the property taxes for which a credit was granted under this chapter, the county treasurer shall bill the taxpayer for the amount of the credit that was based on the unpaid property taxes.

(c) The county auditor shall apply the credit under this chapter equally to each installment of property taxes.

Sec. 10. Before May 1 of each year, the auditor of each county shall certify to the department of local government finance the total amount of credits allowed under this chapter in the county with respect to property taxes payable in the current year.

Sec. 11. Each year the property tax replacement fund board shall allocate to the department of state revenue from the property tax replacement fund an amount equal to the total amount of credits allowed under this chapter for each county for that year in the same manner as the homestead credits are allocated from the property tax replacement fund under IC 6-1.1-21.

Sec. 12. (a) The department of state revenue shall distribute to each county treasurer from the property tax replacement fund the estimated credit distribution for that year for the county at the same time and in the same manner as the homestead credit distributions are made under IC 6-1.1-21. The money in the fund is appropriated to make the distributions.

(b) All distributions provided in this section shall be made on warrants issued by the auditor of state and drawn on the treasurer of state.

Sec. 13. To the extent it is consistent with this chapter, IC 6-1.1-21 applies with respect to the credit under this chapter."

Page 47, line 18, delete "15%" and insert "30%".

Page 48, delete lines 10 through 42.

Delete pages 49 through 52.

Page 53, delete lines 1 through 20.

Page 58, delete line 42.

Page 59, delete lines 1 through 23.

Page 65, delete lines 39 through 42.

Delete pages 66 through 68.

Page 69, delete lines 1 through 4.

Page 75, delete lines 36 through 42.

Delete pages 76 through 88.

Page 89, delete lines 1 through 30.

Page 91, delete lines 29 through 33.

Page 91, between lines 33 and 34, begin a new paragraph and insert:

**"(b) Transactions involving research and development equipment are exempt from the state gross retail tax."**

Page 101, delete lines 11 through 30.

Page 102, delete lines 17 through 42.

Delete pages 103 through 105.

Page 106, delete lines 1 through 18.

Page 107, line 30, delete ":".

Page 107, line 31, delete "(1)".

Page 107, line 31, delete "the first twenty".

Page 107, line 32, delete "thousand dollars (\$20,000) of".

Page 107, run in lines 30 through 32.

Page 107, delete lines 33 through 37.

Page 107, line 40, delete "The tax rate imposed by".

Page 107, delete lines 41 through 42.

Page 108, delete line 1.

Page 134, between lines 1 and 2, begin a new paragraph and insert:

**"SECTION 117. IC 6-3.1-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:**

(1) The director or, upon the director's designation, the executive director of the department of commerce.

(2) The director of the budget agency.

(3) The commissioner of the department of state revenue.

(4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4) members of the board constitute a quorum to transact and vote on the business of the board.

(c) The department of commerce shall assist the board in carrying out the board's duties under this chapter **and IC 6-3.1-28.**

**SECTION 121. IC 6-3.1-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all of the following conditions exist:**

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(3) ~~There is at least one (1) other state that~~ If the applicant verifies **that at least one (1) other state** is being considered for the project, ~~(4) a significant disparity is identified, using best available data, in the projected costs for the applicant's project compared to the costs in the competing state, including the impact of the competing state's incentive programs. The competing state's incentive programs shall include state, local, private, and federal funds available.~~

~~(5) (4) The political subdivisions affected by the project have committed significant local incentives with respect to the project.~~

~~(6) (5) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating~~

new jobs in Indiana.

~~(7)~~ (6) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

~~(8)~~ (7) The credit is not prohibited by section 16 of this chapter.

SECTION 122. IC 6-3.1-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. In determining the credit amount that should be awarded, the board shall take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

(2) The potential impact on the economy of Indiana.

(3) **If at least one (1) other state is being considered for the project, the estimated** magnitude of the cost differential between Indiana and the competing state.

(4) The incremental payroll attributable to the project.

(5) The capital investment attributable to the project.

(6) The amount the average wage paid by the applicant exceeds the average wage paid within the county in which the project will be located.

(7) The costs to Indiana and the affected political subdivisions with respect to the project.

(8) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

SECTION 123. IC 6-3.1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter **and IC 6-3.1-28, including paying for the costs of administering this chapter and IC 6-3.1-28.** The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency."

Page 137, line 37, delete "." and insert **"equal to the amount determined under section 6.5 of this chapter."**

Page 138, line 15, delete "SIX" and insert **"FIVE"**.

Page 138, delete lines 17 through 42.

Page 139, delete lines 1 through 8, begin a new line block indented and insert:

**"STEP ONE: Determine the amount of the property taxes paid by the taxpayer on the assessed value of the person's business personal property.**

**STEP TWO: Determine the amount of the property taxes that would be paid by the taxpayer on an assessed value of thirty-seven thousand five hundred dollars (\$37,500).**

**STEP THREE: Determine the lesser of the STEP ONE and STEP TWO results.**

**STEP FOUR: Determine the amount of property taxes paid by the taxpayer on the assessed value of the person's inventory (as defined in IC 6-1.1-3-11).**

**STEP FIVE: Determine the sum of the STEP THREE and STEP FOUR results."**

Page 139, line 14, strike "may carry the excess over to the following taxable".

Page 139, strike lines 15 through 17.

Page 139, line 18, strike "taxpayer is not entitled to a carryback." and insert **"is entitled to a refund equal to the amount of the excess."**

Page 139, delete lines 19 through 42.

Delete pages 140 through 154.

Page 155, delete lines 1 through 15, begin a new paragraph and insert:

**"SECTION 134. IC 6-3.1-24 IS ADDED TO THE INDIANA**

**CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:**

#### **Chapter 24. Headquarters Relocation Tax Credit**

**Sec. 1. As used in this chapter, "corporate headquarters" means the building or buildings where:**

**(1) the principal offices of the principal executive officers of an eligible business are located; and**

**(2) at least two hundred fifty (250) employees are employed.**

**Sec. 2. As used in this chapter, "eligible business" means a business that:**

**(1) is engaged in either interstate or intrastate commerce;**

**(2) maintains a corporate headquarters in a state other than Indiana as of January 1, 2003;**

**(3) had annual worldwide revenues of at least twenty-five billion dollars (\$25,000,000,000) for the year immediately preceding the business's application for a tax credit under section 12 of this chapter; and**

**(4) is prepared to commit contractually to relocating its corporate headquarters to Indiana.**

**Sec. 3. As used in this chapter, "pass through entity" means:**

**(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);**

**(2) a partnership;**

**(3) a limited liability company; or**

**(4) a limited liability partnership.**

**Sec. 4. As used in this chapter, "qualifying project" means the relocation of the corporate headquarters of an eligible business from a location outside Indiana to a location in Indiana.**

**Sec. 5. As used in this chapter, "relocation costs" means the reasonable and necessary expenses incurred by an eligible business for a qualifying project. The term includes:**

**(1) moving costs and related expenses;**

**(2) the purchase of new or replacement equipment;**

**(3) capital investment costs; and**

**(4) property assembly and development costs, including:**  
**(A) the purchase, lease, or construction of buildings and land;**

**(B) infrastructure improvements; and**

**(C) site development costs.**

**The term does not include any costs that do not directly result from the relocation of the business to a location in Indiana.**

**Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:**

**(1) IC 6-2.1 (the gross income tax);**

**(2) IC 6-2.5 (state gross retail and use tax);**

**(3) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**

**(4) IC 6-3-8 (the supplemental corporate net income tax);**

**(5) IC 6-5-10 (the bank tax);**

**(6) IC 6-5-11 (the savings and loan association tax);**

**(7) IC 6-5.5 (the financial institutions tax); and**

**(8) IC 27-1-18-2 (the insurance premiums tax);**

**as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.**

**Sec. 7. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.**

**Sec. 8. A taxpayer that:**

**(1) is an eligible business;**

**(2) completes a qualifying project; and**

**(3) incurs relocation costs;**

**is entitled to a credit against the person's state tax liability for the taxable year in which the relocation costs are incurred. The credit allowed under this section is equal to the amount determined under section 9 of this chapter.**

**Sec. 9. (a) Subject to subsection (b), the amount of the credit to which a taxpayer is entitled under section 8 of this chapter equals the product of:**

**(1) fifty percent (50%); multiplied by**

**(2) the amount of the taxpayer's relocation costs in the taxable year.**



(b) The credit to which a taxpayer is entitled under section 8 of this chapter may not reduce the taxpayer's state tax liability below the amount of the taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred relocation costs.

Sec. 10. If a pass through entity is entitled to a credit under section 8 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 11. The total value of a tax credit under this chapter shall be divided equally over ten (10) years, beginning with the year in which the credit is granted. If the amount of credit provided under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the taxpayer's relocation costs and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 13. In determining whether an expense of the eligible business directly resulted from the relocation of the business, the department shall consider whether the expense would likely have been incurred by the eligible business if the business had not relocated from its original location.

SECTION 134. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

#### Chapter 25. Certified Job Skills Training Program Employer Credit

Sec. 1. As used in this chapter, "certified job skills training program" means a job skills training program certified by the department of workforce development under IC 22-4.1-7.

Sec. 2. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 3. As used in this chapter, "qualified employer" means a person, corporation, or pass through entity that pays an average hourly wage that exceeds one hundred fifty percent (150%) of the federal minimum wage.

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- (3) IC 6-3-8 (supplemental net income tax);
- (4) IC 6-5-10 (bank tax);
- (5) IC 6-5-11 (savings and loan association tax);
- (6) IC 6-5.5 (financial institutions tax); and
- (7) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. As used in this chapter, "training program expenditures" means expenses incurred by a qualified employer for any of the following:

- (1) Sponsoring or co-sponsoring a certified job skills training program that it provides to its employees, to the

extent the expenses are incurred in providing the training to its employees and not to other program participants, and including any fees or revenue lost by providing the program to its employees at no cost or a reduced cost.

(2) Reimbursing an employee for participation in a certified job skills training program not sponsored or co-sponsored by the qualified employer.

Sec. 6. A qualified employer is entitled to a credit against the qualified employer's state tax liability for training program expenditures made by the qualified employer in a taxable year. The amount of the credit is equal to the qualified employer's training program expenditures in the taxable year multiplied by ten percent (10%).

Sec. 7. (a) If the amount determined under section 6 of this chapter for a qualified employer in a taxable year exceeds the qualified employer's state tax liability for that taxable year, the qualified employer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the qualified employer to obtain a credit under this chapter for any subsequent taxable year. A qualified employer is not entitled to a carryback.

(b) A qualified employer is not entitled to a refund of any unused credit.

Sec. 8. If a qualified employer is a pass through entity that does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 9. To receive the credit provided by this chapter, a qualified employer must claim the credit on the qualified employer's state tax return in the manner prescribed by the department. The qualified employer must submit to the department proof of payment of the training program expenditures, proof that the expenditures were for job skills training programs certified by the department of workforce development under IC 22-4.1-7, and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 135. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

#### Chapter 26. Certified Job Skills Training Program Individual Credit

Sec. 1. As used in this chapter, "certified job skills training program" means a job skills training program certified by the department of workforce development under IC 22-4.1-7.

Sec. 2. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax) as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 3. As used in this chapter, "taxpayer" means any individual that has any state tax liability.

Sec. 4. As used in this chapter, "training program expenditures" means expenses incurred by the taxpayer for fees or tuition that are:

- (1) paid by the taxpayer for participation in a certified job skills training program that relates to the taxpayer's career field or job classification, as determined by the department of workforce development under rules adopted under IC 22-4.1-7-4(a)(2); and
- (2) not reimbursed or otherwise covered by the taxpayer's employer.

Sec. 5. A taxpayer is entitled to a credit against the taxpayer's state tax liability for training program expenditures made by the taxpayer in a taxable year. The amount of the credit is equal to the lesser of:

- (1) the taxpayer's training program expenditures in the



taxable year multiplied by twenty-five percent (25%); or  
(2) two hundred fifty dollars (\$250).

If a husband and wife file a joint income tax return and each spouse is eligible for the credit during a taxable year, the amount of the credit that may be claimed on the joint return is equal to the amount of the credit the husband is entitled to under this subsection plus the amount of the credit the wife is entitled to under this subsection.

Sec. 6. (a) If the amount determined under section 5 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is entitled to a refund of any unused credit.

Sec. 7. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return in the manner prescribed by the department. The taxpayer must submit to the department:

- (1) proof of payment of the training program expenditures;
- (2) proof that the expenditures were for job skills training programs:
  - (A) certified by the department of workforce development under IC 22-4.1-7; and
  - (B) related to the taxpayer's career field or job classification, as determined by the department of workforce development under rules adopted under IC 22-4.1-7; and
- (3) all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 136. IC 6-3.1-27 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### Chapter 27. Hoosier Homefield Advantage Investment Tax Credit

Sec. 1. As used in this chapter, "board" has the meaning set forth in IC 6-3.1-13-1.

Sec. 2. As used in this chapter, "director" has the meaning set forth in IC 6-3.1-13-3.

Sec. 3. As used in this chapter, "full-time employee" has the meaning set forth in IC 6-3.1-13-4.

Sec. 4. As used in this chapter, "new employee" has the meaning set forth in IC 6-3.1-13-6.

Sec. 5. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

Sec. 6. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for:

- (1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing equipment;
- (2) the purchase of new computers and related equipment;
- (3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
- (4) onsite infrastructure improvements;
- (5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
- (6) costs associated with retooling existing machinery and equipment; and
- (7) costs associated with the construction of special purpose

buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry;

that are certified by the board under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5-10 (the bank tax);
- (5) IC 6-5-11 (the savings and loan association tax);
- (6) IC 27-1-18-2 (the insurance premiums tax); and
- (7) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 9. The board may make credit awards under this chapter to foster job creation and higher wages in Indiana.

Sec. 10. A taxpayer that:

- (1) is awarded a tax credit under this chapter by the board; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the board and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

Sec. 11. The amount of the tax credit is equal to the lesser of the following:

- (1) Three percent (3%) of the amount of the qualified investment made by the taxpayer in Indiana.
- (2) The difference between the taxpayer's state tax liability in the taxable year and the taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which the taxpayer made the qualified investment.

Sec. 12. The taxpayer is entitled to claim the tax credit in each of ten (10) consecutive taxable years beginning with the taxable year in which the taxpayer makes the qualified investment. If the amount of a credit for a particular taxpayer in a particular taxable year exceeds the taxpayer's state tax liability for the taxable year, the taxpayer may carry forward the unused part of the tax credit to subsequent taxable years.

Sec. 13. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

An unused tax credit granted under this chapter is not refundable and may not be carried forward.

Sec. 14. A person that proposes a project to create new jobs or increase wage levels in Indiana may apply to the board before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

Sec. 15. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all of the following conditions exist:

- (1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date that the application is received.
- (2) The applicant's project will raise the total earnings of employees of the applicant in Indiana.

(3) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(4) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.

(5) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(6) The credit is not prohibited by section 16 of this chapter.

(7) The average wage that will be paid by the taxpayer at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

Sec. 16. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the board.

Sec. 17. The board shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the board shall grant a credit only for the amount of the qualified investment that is directly related to expanding the workforce in Indiana.

Sec. 18. The board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.

(4) The maximum tax credit amount that will be allowed for each taxable year.

(5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(7) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, and the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.

(8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) A requirement that the taxpayer shall pay an average wage to all of its employees (excluding officers, partners, and shareholders) in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the board determines are appropriate.

Sec. 19. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Sec. 20. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all of the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the department of commerce and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Sec. 21. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be delivered to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 22. On a biennial basis, the board shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council, established under IC 4-3-14-4. The evaluation shall include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year."

Page 158, delete lines 36 through 42.

Delete pages 159 through 162.

Page 163, delete lines 1 through 39.

Page 164, delete lines 36 through 42.

Delete pages 165 through 169.

Page 170, delete lines 1 through 4.

Page 171, line 28, delete "Eighty-four" and insert "Thirteen".

Page 171, line 29, delete "five-hundredths" and insert "thirteen hundredths".

Page 171, line 29, delete "(84.05%)" and insert "(13.13%)".

Page 171, between lines 33 and 34, begin a new line block indented and insert:

"(5) Seventy and ninety-two hundredths percent (70.92%) of the money shall be deposited into the Indiana tax restructuring fund established under IC 4-10-20."

Page 172, line 26, delete "the franchise tax (IC 6-2.2);".

Page 175, delete lines 27 through 42.

Delete pages 176 through 178.

Page 179, delete lines 1 through 4.

Page 187, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 171. IC 10-1-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) Authority is granted to the department to establish and operate an actuarially sound pension plan governed by a pension trust and to make the

necessary annual contribution in order to prevent any deterioration in the actuarial status of the trust fund.

(b) Contributions shall be made to the trust fund by the department and by each employee beneficiary through authorized monthly deductions from wages.

(c) The trust fund may not be commingled with any other funds and shall be invested only in accordance with Indiana laws for the investment of trust funds, together with such other investments as are specifically designated in the pension trust. Subject to the terms of the pension trust, the trustee, with the approval of the Department and the Pension Advisory Board, may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other action necessary to fulfill its duty as a fiduciary for the trust fund. However, the trustee shall invest the trust fund assets with the same care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The trustee shall also diversify such investments in accordance with prudent investment standards, **subject to the limitations and restrictions set forth in IC 5-10.2-2-18.** The investment of trust funds is subject to section 2.5 of this chapter.

(d) The trustee shall receive and hold as trustee for the uses and purposes set forth in the pension trust any and all funds paid by the department, the employee beneficiaries, or by any other person or persons.

(e) The trustee shall engage pension consultants to supervise and assist in the technical operation of the pension plan in order that there may be no deterioration in the actuarial status of the plan.

(f) Before October 1 of each year, the trustee, with the aid of the pension consultants, shall prepare and file a report with the department and the state board of accounts. The report must include the following with respect to the fiscal year ending on the preceding June 30:

SCHEDULE I. Receipts and disbursements.

SCHEDULE II. Assets of the pension trust, listing investments as to book value and current market value at the end of the fiscal year.

SCHEDULE III. List of terminations, showing cause and amount of refund.

SCHEDULE IV. The application of actuarially computed "reserve factors" to the payroll data, properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

SCHEDULE V. The application of actuarially computed "current liability factors" to the payroll data, properly classified for the purpose of computing the liability of the trust fund for the end of the fiscal year.

SCHEDULE VI. An actuarial computation of the pension liability for all employees retired before the close of the fiscal year.

(g) The minimum annual contribution by the department must be of sufficient amount, as determined by the pension consultants, to prevent any deterioration in the actuarial status of the pension plan during that year. If the department fails to make the minimum contribution for five (5) successive years, the pension trust terminates and the trust fund shall be liquidated.

(h) In the event of liquidation, all expenses of the pension trust shall be paid, adequate provision shall be made for continuing pension payments to retired persons, and each employee beneficiary shall receive the net amount paid into the trust fund from wages. Any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

SECTION 172. IC 10-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. The mortality reserve account referred to in section 3 of this chapter, the disability reserve account referred to in section 4 of this chapter, and the dependent pension reserve account referred to in section 5 of this chapter may be commingled and operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents. The trustee

shall receive and hold as trustee for the uses and purposes set out in the supplementary trust agreement all funds paid to it as such trustee by the department or by any other person or persons. The trustee shall hold, invest, and reinvest the police benefit fund in such investments as it is permitted under the laws of Indiana to invest trust funds and such other investments as may be specifically designated in the supplementary trust agreement. **If the trustee decides to allocate part of the assets of the police benefit fund to alternative investments (as defined in IC 5-10.2-2-18), the trustee shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18.** The trustee, with the assistance of the pension engineers, shall, within ninety (90) days after the close of the fiscal year, prepare and file with the department and the Indiana insurance department a detailed annual report showing receipts, disbursements, and case histories and making recommendations as to the necessary contributions required to keep the program in operation. Contributions by the department to the police benefit fund shall be provided in the general appropriations to the department."

Page 187, delete lines 41 through 42.

Page 188, delete lines 1 through 25.

Page 188, delete lines 40 through 42.

Delete page 189.

Page 190, delete lines 1 through 38.

Page 200, delete lines 39 through 42.

Delete pages 201 through 204.

Page 205, delete lines 1 through 7.

Page 206, line 21, reset in roman "provide money to a county to assist the county in defraying the".

Page 206, line 21, delete "pay".

Page 208, delete lines 2 through 22.

Page 210, delete lines 3 through 42.

Delete page 211 through 213.

Page 214, delete lines 1 through 15.

Page 217, delete lines 30 through 42.

Page 218, delete lines 1 through 3.

Page 227, delete lines 18 through 42.

Delete page 228.

Page 229, delete lines 1 through 15.

Page 234, delete lines 1 through 10.

Page 236, delete line 42.

Delete page 237.

Page 238, delete lines 1 through 23.

Page 239, line 24, delete "(0.5); minus" and insert "(0.5)".

Page 239, delete lines 25 through 29.

Page 239, delete lines 35 through 42.

Delete page 240.

Page 241, delete lines 1 through 7.

Page 241, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 270. IC 21-6.1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also diversify such investments in accordance with prudent investment standards, **subject to the limitations and restrictions set forth in IC 5-10.2-2-18.**

(b) The board may:

(1) make or have made investigations concerning investments; and

(2) contract for and employ investment counsel to advise and assist in the purchase and sale of securities. **subject to IC 5-10.2-2-15.**

(c) The board is not subject to IC 4-13, IC 4-13.6, or IC 5-16 when managing real property as an investment. Any management agreements entered into by the board must ensure that the management agent acts in a prudent manner with regard to the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for the management of real property as an investment:

(1) may not exceed a four (4) year term and must be based upon

guidelines established by the board;

(2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as utilities, cleaning, maintenance, and minor tenant finish needs;

(3) shall establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and

(4) may provide specific guidelines for the board to purchase new properties, contract for the construction or repair of properties, and lease or sell properties without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

**SECTION 271. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:**

#### **Chapter 7. Job Skills Training Program Certification**

**Sec. 1. As used in the chapter, "job skills training program" means a course or program designed to:**

(1) develop, enhance, or upgrade basic workforce skills of an employee, including:

(A) literacy;

(B) communication skills;

(C) computational skills; or

(D) other transferable workforce skills; or

(2) develop, enhance, or upgrade advanced, specialized, or industry specific skills of an employee that are directly related to the employee's job or career.

**Sec. 2. As used in this chapter, "person" means any individual, corporation, limited liability company, partnership, firm, association, public or private agency, educational institution, or other organization.**

**Sec. 3. As used in this chapter, "sponsor" means a person operating a job skills training program and in whose name the program is registered or approved.**

**Sec. 4. (a) The department shall adopt rules under IC 4-22-2 to establish standards for:**

(1) certifying job skills training programs in Indiana; and

(2) certifying that a job skills training program is related to particular career fields or job classifications, for purposes of allowing employees to claim a credit against state tax liability under IC 6-3.1-25.

**(b) The rules adopted by the department under subsection (a) must require as a condition for certification under this chapter that a job skills training program be conducted under an organized, written plan that describes the following:**

(1) The nature of the training, instruction, or other curricula to be provided to program participants.

(2) The career fields or job classifications to which the training relates, to allow the department to make the certification required under subsection (a)(2).

(3) The duration of the training.

(4) Any certification, license, or degree that a participant may earn through completion of the program and the specific requirements for the certification, license, or degree.

(5) Any fees or tuition to be charged for the program.

(6) The sponsor's experience in conducting the program or other job skills training programs.

**(c) The rules adopted by the commission under subsection (a) may include:**

(1) a requirement that the sponsor of a job training program be certified by, accredited by, or otherwise in

good standing with an appropriate accrediting body;

(2) minimum requirements, including the payment of any certification fees, for initial certification under this chapter after June 30, 2002;

(3) requirements for renewing a certification first issued under this chapter after June 30, 2002, including the payment of any renewal fees; or

(4) any other requirement that the department considers appropriate.

**Sec. 5. The sponsor of a job skills training program who seeks certification under this chapter shall apply to the department for certification on forms prescribed by the department."**

Page 242, delete lines 26 through 42.

Delete pages 243 through 244.

Page 245, delete lines 1 through 6.

Page 245, line 13, delete "business franchise taxes,".

Page 245, line 38, delete "business franchise taxes,".

Page 250, line 31, delete "business franchise taxes,".

Page 251, line 36, delete "business".

Page 251, line 37, delete "franchise taxes,".

Page 286, delete lines 30 through 42.

Delete pages 287 through 299.

Page 300, delete lines 1 through 11, begin a new paragraph and insert:

"SECTION 289. IC 36-7-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 32. Certified Technology Parks**

**Sec. 1. This chapter applies to all units having a department of redevelopment under IC 36-7-14 or a department of metropolitan development as the redevelopment commission of a consolidated city under IC 36-7-15.1.**

**Sec. 2. The definitions set forth in IC 36-7-14 and IC 36-7-15.1 apply throughout this chapter.**

**Sec. 3. As used in this chapter, the following terms have the meanings set forth in IC 6-1.1-1:**

(1) Assessment date.

(2) Assessed value or assessed valuation.

(3) Taxing district.

(4) Taxing unit.

**Sec. 4. As used in this chapter, "base assessed value" means:**

(1) the net assessed value of all the taxable property located in a certified technology park as finally determined for the assessment date immediately preceding the effective date of the allocation provision of a resolution adopted under section 15 of this chapter; plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

**Sec. 5. As used in this chapter, "business incubator" means real and personal property that:**

(1) is located in a certified technology park;

(2) is subject to an agreement under section 12 of this chapter; and

(3) is developed for the primary purpose of attracting one (1) or more owners or tenants who will engage in high technology activities.

**Sec. 6. As used in this chapter, "gross retail base period amount" means the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a certified technology park during the full state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter.**

**Sec. 7. As used in this chapter, "high technology activity" means one (1) or more of the following:**

(1) Advanced computing, which is any technology used in the design and development of any of the following:

(A) Computer hardware and software.

(B) Data communications.

## (C) Information technologies.

(2) Advanced materials, which are materials with engineered properties created through the development of specialized process and synthesis technology.

(3) Biotechnology, which is any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product, improve plants or animals, or develop microorganisms for useful purposes. Biotechnology does not include human cloning or stem cell research with embryonic tissue.

(4) Electronic device technology, which is any technology that involves:

(A) microelectronics, semiconductors, or electronic equipment;

(B) instrumentation, radio frequency, microwave, and millimeter electronics;

(C) optical and optic electrical devices; or

(D) data and digital communications and imaging devices.

(5) Engineering or laboratory testing related to the development of a product.

(6) Technology that assists in the assessment or prevention of threats or damage to human health or the environment, including environmental cleanup technology, pollution prevention technology, or development of alternative energy sources.

(7) Medical device technology, which is any technology that involves medical equipment or products other than a pharmaceutical product that has therapeutic or diagnostic value and is regulated.

(8) Product research and development.

(9) Advanced vehicles technology, which is any technology that involves:

(A) electric vehicles, hybrid vehicles, or alternative fuel vehicles; or

(B) components used in the construction of electric vehicles, hybrid vehicles, or alternative fuel vehicles.

Sec. 8. As used in this chapter, "income tax base period amount" means the aggregate amount of the following taxes paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter:

(1) The adjusted gross income tax.

(2) The county adjusted gross income tax.

(3) The county option income tax.

(4) The county economic development income tax.

Sec. 9. As used in this chapter, subject to the approval of the department of commerce under an agreement entered into under section 12 of this chapter, "public facilities" includes the following:

(1) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subdivision must be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge must be continuously open to public access. A public facility must be located on public property

or in a public, utility, or transportation easement or right-of-way.

(2) Land and other assets that are or may become eligible for depreciation for federal income tax purposes for a business incubator located in a certified technology park.

(3) Land and other assets that, if privately owned, would be eligible for depreciation for federal income tax purposes for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities:

(A) that are or that support property whose primary purpose and use is or will be for a high technology activity;

(B) that are owned by a public entity; and

(C) that are located within a certified technology park.

Sec. 10. A unit may apply to the department of commerce for designation of all or part of the territory within the jurisdiction of the unit's redevelopment commission as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The application must be in a form specified by the department and shall include information the department determines necessary to make the determinations required under section 11 of this chapter.

Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the department of commerce may designate a certified technology park if the department determines that the application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education or a private research based institute located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

(A) Grants of preferences for access to and commercialization of intellectual property.

(B) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(H) Other criteria considered appropriate by the department.

(2) A demonstration of a significant commitment by the institution of higher education or private research based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(A) A commitment to new business formation.

(B) The clustering of businesses, technology, and research.

(C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The department of commerce may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

Sec. 12. A redevelopment commission and the legislative body of the unit that established the redevelopment commission may enter into an agreement with the department of commerce establishing the terms and conditions governing a certified technology park designated under section 11 of this chapter. Upon designation of the certified technology park under the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement does not result in the termination or rescission of the designation of the area as a certified technology park. The agreement must include the following provisions:

(1) A description of the area to be included within the certified technology park.

(2) Covenants and restrictions, if any, upon all or a part of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(3) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(4) The terms of any commitment required from an institution of higher education or a private research based institute for support of the operations and activities within the certified technology park.

(5) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(6) The public facilities to be developed for the certified technology park and the costs of those public facilities, as approved by the department of commerce.

Sec. 13. (a) If the department of commerce determines that a sale price or rental value at below market rate will assist in increasing employment or private investment in a certified technology park, the redevelopment commission and the legislative body of the unit may determine the sale price or rental value for public facilities owned or developed by the redevelopment commission and the unit in the certified technology park at below market rate.

(b) If public facilities developed under an agreement entered into under this chapter are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies

and rights to assure that the public facilities are used for high technology activities or as a business incubator. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

Sec. 14. The department of commerce shall market the certified technology park. The department and a redevelopment commission may contract with each other or any third party for these marketing services.

Sec. 15. (a) Subject to the approval of the legislative body of the unit that established the redevelopment commission, the redevelopment commission may adopt a resolution designating a certified technology park as an allocation area for purposes of the allocation and distribution of property taxes.

(b) After adoption of the resolution under subsection (a), the redevelopment commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the certified technology park is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the certified technology park, including the following:

(i) The estimated economic benefits and costs incurred by the certified technology park, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the certified technology park and must state that written remonstrances may be filed with the redevelopment commission until the time designated for the hearing. The notice must also name the place, date, and time when the redevelopment commission will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The commission shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing, including all taxpayers within the taxing district of the redevelopment commission, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the redevelopment commission affecting the allocation area if the redevelopment commission gives the notice required by this section.

(c) At the hearing, which may be recessed and reconvened periodically, the redevelopment commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the redevelopment commission shall take final action determining the public utility and benefit of the proposed allocation area confirming, modifying and confirming, or rescinding the resolution. The final action taken by the redevelopment commission shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 16 of this chapter.

Sec. 16. (a) A person who files a written remonstrance with the redevelopment commission under section 15 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file with the office of the clerk of the circuit or superior court of the county a copy of the redevelopment commission's resolution and the person's remonstrance against the resolution, together with the person's bond as provided by IC 34-13-5-7.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of filing of the appeal. The court shall decide the appeal based on the record

and evidence before the redevelopment commission, not by trial de novo, and may confirm the final action of the redevelopment commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

Sec. 17. (a) An allocation provision adopted under section 15 of this chapter must:

- (1) apply to the entire certified technology park; and
- (2) require that any property tax on taxable property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the certified technology park be allocated and distributed as provided in subsections (b) and (c).

(b) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

- (1) the assessed value of the taxable property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

(c) Except as provided in subsection (d), all the property tax proceeds from property taxes first due and payable in the first fifteen (15) calendar years beginning after the date the certified technology park is established that exceed those described in subsection (b) shall be allocated as follows:

- (1) Fifty percent (50%) to the redevelopment commission for the certified technology park and, when collected, paid into the certified technology park fund established under section 23 of this chapter.
- (2) Fifty percent (50%) to the taxing units entitled to a distribution of property taxes in the certified technology park, and when collected, paid into the funds of the respective taxing units.

After the expiration of the fifteen (15) year period described in this subsection, all the property tax proceeds that exceed those described in subsection (b) shall be allocated to the taxing units entitled to a distribution of property taxes in the certified technology park, and when collected, paid into the funds of the respective taxing units.

(d) Before July 15 of each year, the redevelopment commission shall do the following:

- (1) Determine the amount, if any, by which the property tax proceeds to be deposited in the certified technology park fund will exceed the amount necessary for the purposes described in section 23 of this chapter.
- (2) Notify the county auditor of the amount, if any, of excess tax proceeds that the redevelopment commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (c). The redevelopment commission may not authorize an allocation of property tax proceeds under this subdivision if to do so would endanger the interests of the holders of bonds described in section 24 of this chapter.

(e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the certified technology park effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the certified technology park, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

- (1) the assessed value of the taxable property as valued without regard to this section; or
- (2) the base assessed value.

Sec. 18. (a) A redevelopment commission may, by resolution, provide that each taxpayer in a certified technology park that has been designated as an allocation area is entitled to an additional credit for property taxes that, under IC 6-1.1-22-9, are due and payable in May and November of that year.

One-half (1/2) of the credit shall be applied to each installment of property taxes. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district that contains all or part of the certified technology park:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

STEP TWO: Divide:

- (A) the part of twenty percent (20%) of the county's total county tax levy payable that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by
- (B) the STEP ONE sum.

STEP THREE: Multiply:

- (A) the STEP TWO quotient; by
- (B) the total amount of the taxpayer's property taxes levied in the taxing district that would have been allocated to the certified technology park fund under section 17 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the certified technology park fund under section 17 of this chapter.

(b) The additional credit under subsection (a) shall be:

- (1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of a certified technology park; and
- (2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in a certified technology park who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies must be stated on the notice.

(d) Notwithstanding any other law, a taxpayer in a certified technology park is not entitled to a credit for property tax replacement under IC 6-1.1-21-5.

Sec. 19. (a) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department of local government finance consider appropriate for the implementation of an allocation area under this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to certified technology park fund under section 17 of this chapter.

Sec. 20. (a) After entering into an agreement under section 12 of this chapter, the redevelopment commission shall send to the department of state revenue:

- (1) a certified copy of the designation of the certified technology park under section 11 of this chapter;
- (2) a certified copy of the agreement entered into under section 12 of this chapter; and
- (3) a complete list of the employers in the certified technology park and the street names and the range of street numbers of each street in the certified technology park.

The redevelopment commission shall update the list provided under subdivision (3) before July 1 of each year.

(b) Not later than sixty (60) days after receiving a copy of the designation of the certified technology park, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

Sec. 21. Before the first business day in October of each year, the department of state revenue shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each certified technology park



designated under this chapter.

Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(c) No additional deposits shall be made in an incremental tax financing fund under subsection (b) after the total amount of deposits that has been made in that fund reaches five million dollars (\$5,000,000).

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

Sec. 23. (a) Each redevelopment commission that establishes a certified technology park under this chapter shall establish a certified technology park fund to receive:

(1) property tax proceeds allocated under section 17 of this chapter; and

(2) money distributed to the redevelopment commission under section 22 of this chapter.

(b) Money deposited in the certified technology park fund may be used by the redevelopment commission only for one (1) or more of the following purposes.

(1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of public facilities.

(2) Operation of public facilities described in section 9(2) of this chapter.

(3) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in the certified technology park.

(4) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).

(5) Payment of the principal of and interest on bonds issued by the unit to pay for public facilities in or serving the certified technology park.

(6) Payment of premiums on the redemption before maturity of bonds described in subdivision (3).

(7) Payment of amounts due under leases payable from money deposited in the fund.

(8) Reimbursement of the unit for expenditures made by it for public facilities in or serving the certified technology park.

(9) Payment of expenses incurred by the redevelopment commission for public facilities that are in the certified technology park or serving the certified technology park.

(c) The certified technology park fund may not be used for

operating expenses of the redevelopment commission.

Sec. 24. (a) A redevelopment commission may issue bonds for the purpose of providing public facilities under this chapter.

(b) The bonds are payable solely from:

(1) property tax proceeds allocated to the certified technology park fund under section 17 of this chapter;

(2) money distributed to the redevelopment commission under section 22 of this chapter;

(3) other funds available to the redevelopment commission; or

(4) a combination of the methods stated in subdivisions (1) through (3).

(c) The bonds shall be authorized by a resolution of the redevelopment commission.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within fifty (50) years.

(f) The redevelopment commission shall sell the bonds at public or private sale upon such terms as determined by the redevelopment commission.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a certified technology park, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the public facilities and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the public facilities suitable for use and operations;

(4) architectural, engineering, consultant, and attorney's fees;

(5) incidental expenses in connection with the issuance and sale of bonds;

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the redevelopment commission, but not to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, and interest on, the bonds being refunded or refinanced.

Sec. 25. The establishment of high technology activities and public facilities within a technology park serves a public purpose and is of benefit to the general welfare of a unit by encouraging investment, job creation and retention, and economic growth and diversity."

Page 300, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 289. IC 36-8-6-6, AS AMENDED BY P.L.35-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The local board shall determine how much of the 1925 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made:

(1) in interest bearing bonds of the United States, the state, or an Indiana municipal corporation. The bonds shall be deposited with and must remain in the custody of the treasurer of the board, who shall collect the interest due as it becomes due; or

(2) under IC 5-13-9.

(b) Investments under this section are subject to section 1.5 of this chapter.

(c) If the local board decides to allocate part of the assets of the 1925 fund to alternative investments (as defined in IC 5-10.2-2-18), the local board shall comply with the limitations

**and restrictions set forth in IC 5-10.2-2-18.**

SECTION 290. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

- (1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.
- (2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.
- (3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.
- (4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, or county treasurer acting under IC 36-4-10-6, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (or county treasurer) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by ~~him~~ **the officer**. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by ~~him~~ **the officer**. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he~~ **the officer** will faithfully discharge the duties of ~~his~~ **the officer's** office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his~~ **the officer's** hands by virtue of ~~his~~ **the officer's** office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer (or county treasurer) until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

**(f) If the local board decides to allocate part of the assets of the 1937 fund to alternative investments (as defined in IC 5-10.2-2-18), the local board shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18.**

SECTION 291. IC 36-8-7.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The local board shall determine how much of the 1953 fund may be safely invested and how much should be retained for the needs of the fund. The investment shall be made in interest bearing direct obligations of the United States, obligations or issues guaranteed by the United States, bonds of the state of Indiana or any political subdivision, or street, sewer, or other improvement bonds of the state of Indiana or any political subdivision. However, the local board may not invest in obligations issued by the consolidated city, the county, or any political subdivision in the county. Any securities shall be deposited with and remain in the custody of the treasurer of the local board, who shall collect the interest due on them as it becomes due and payable. The local board may sell any of the securities belonging to

the 1953 fund and borrow money upon the securities as collateral whenever in the judgment of the local board this action is necessary to meet the cash requirements of the 1953 fund.

(b) The revenues derived from the tax levy authorized by section 10(c) of this chapter may not be invested but shall be used for the exclusive purpose of paying the pensions and benefits that the local board is obligated to pay. These revenues are in addition to all money derived from the income on the investments of the board.

(c) Investments under this section are subject to section 1.5 of this chapter.

**(d) If the local board decides to allocate part of the assets of the 1953 fund to alternative investments (as defined in IC 5-10.2-2-18), the local board shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18.**

SECTION 292. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

- (A) the department through a general appropriation provided to the department;
- (B) a line item appropriation directly to the trust fund; or
- (C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages. For a county having a consolidated city, the monthly deductions from an employee beneficiary's wages for the trust fund may not exceed seven percent (7%) of the employee beneficiary's average monthly wages.

(e) The minimum annual contribution by the department must be sufficient, as determined by the pension engineers, to prevent deterioration in the actuarial status of the trust fund during that year. If the department fails to make minimum contributions for three (3) successive years, the pension trust terminates and the trust fund shall be liquidated.

(f) If during liquidation all expenses of the pension trust are paid, adequate provision must be made for continuing pension payments to retired persons. Each employee beneficiary is entitled to receive the net amount paid into the trust fund from the employee beneficiary's wages, and any remaining sum shall be equitably divided among employee beneficiaries in proportion to the net amount paid from their wages into the trust fund.

(g) If a person ceases to be an employee beneficiary because of death, disability, unemployment, retirement, or other reason, the person, the person's beneficiary, or the person's estate is entitled to receive at least the net amount paid into the trust fund from the person's wages, either in a lump sum or monthly installments not less than the person's pension amount.

(h) If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a monthly income in the proper amount of the employee beneficiary's pension during the employee beneficiary's lifetime.

(i) To be entitled to the full amount of the employee beneficiary's

pension classification, an employee beneficiary must have contributed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a pension proportional to the length of the employee beneficiary's service.

(j) This subsection does not apply to a county that adopts an ordinance under section 12.1 of this chapter. For an employee beneficiary who retires before January 1, 1985, a monthly pension may not exceed by more than twenty dollars (\$20) one-half (1/2) the amount of the average monthly wage received during the highest paid five (5) years before retirement. However, in counties where the fiscal body approves the increases, the maximum monthly pension for an employee beneficiary who retires after December 31, 1984, may be increased by no more or no less than two percent (2%) of that average monthly wage for each year of service over twenty (20) years to a maximum of seventy-four percent (74%) of that average monthly wage plus twenty dollars (\$20). For the purposes of determining the amount of an increase in the maximum monthly pension approved by the fiscal body for an employee beneficiary who retires after December 31, 1984, the fiscal body may determine that the employee beneficiary's years of service include the years of service with the sheriff's department that occurred before the effective date of the pension trust. For an employee beneficiary who retires after June 30, 1996, the average monthly wage used to determine the employee beneficiary's pension benefits may not exceed the monthly minimum salary that a full-time prosecuting attorney was entitled to be paid by the state at the time the employee beneficiary retires.

(k) The trust fund may not be commingled with other funds, except as provided in this chapter, and may be invested only in accordance with statutes for investment of trust funds, including other investments that are specifically designated in the trust agreement.

(l) The trustee receives and holds as trustee all money paid to it as trustee by the department, the employee beneficiaries, or by other persons for the uses stated in the trust agreement.

(m) The trustee shall engage pension engineers to supervise and assist in the technical operation of the pension trust in order that there is no deterioration in the actuarial status of the plan.

(n) Within ninety (90) days after the close of each fiscal year the trustee, with the aid of the pension engineers, shall prepare and file an annual report with the department and the state insurance department. The report must include the following:

- (1) Schedule 1. Receipts and disbursements.
- (2) Schedule 2. Assets of the pension trust listing investments by book value and current market value as of the end of the fiscal year.
- (3) Schedule 3. List of terminations, showing the cause and amount of refund.
- (4) Schedule 4. The application of actuarially computed "reserve factors" to the payroll data properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.
- (5) Schedule 5. The application of actuarially computed "current liability factors" to the payroll data properly classified for the purpose of computing the liability of the trust fund as of the end of the fiscal year.

(o) No part of the corpus or income of the trust fund may be used or diverted to any purpose other than the exclusive benefit of the members and the beneficiaries of the members.

**(p) If the trustee decides to allocate part of the assets of the pension trust to alternative investments (as defined in IC 5-10.2-2-18), the trustee shall comply with the limitations and restrictions set forth in IC 5-10.2-2-18."**

Page 300, line 30, after "2002]" insert "IC 6-3.1-21-3; IC 6-3.1-21-4; IC 6-3.1-21-5; IC 6-3.1-21-7;".

Page 300, line 40, delete "IC 6-3.1-21-3; IC 6-3.1-21-4; IC 6-3.1-21-5; IC 6-3.1-21-7;".

Page 300, line 41, after "IC 6-5" delete ";" and insert ".".

Page 300, line 41, delete "IC 12-13-8; IC 12-13-9; IC 12-16-14; IC 12-16.1-13-1;".

Page 300, delete line 42, begin a new paragraph and insert:

"SECTION 292. [EFFECTIVE UPON PASSAGE] (a) The

effective date of 50 IAC 4.3 is delayed. 50 IAC 4.3 applies only for assessments for property taxes first due and payable after December 31, 2003.

**(b) This SECTION expires January 1, 2005.**

SECTION 293. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(b) As used in this SECTION, "general reassessment" refers to the general reassessment of real property that is the basis under IC 6-1.1-4-4 for ad valorem property taxes and special assessments first due and payable in 2004.

(c) The effect resulting from the following of any increase or decrease in the assessed value of tangible property as compared to the assessed value of the tangible property for ad valorem property taxes and special assessments first due and payable in 2003 shall be phased in:

- (1) The general reassessment.
- (2) The application of 50 IAC 4.3.
- (3) The application of any other rule of the department of local government finance for the assessment of tangible property.

(d) The phase in under subsection (c) shall be applied in equal increments with respect to ad valorem property taxes and special assessments first due and payable in 2004, 2005, 2006, and 2007.

(e) The department of local government finance shall adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement this SECTION. A temporary rule adopted under this subsection expires on the earliest of the following:

- (1) The date that another temporary rule adopted under this subsection supersedes the prior temporary rule.
- (2) The date that permanent rules adopted under IC 4-22-2 supersede the temporary rule.
- (3) January 1, 2008.

**(f) This SECTION expires January 1, 2008.**

SECTION 294. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-20.6, as added by this act, applies to credit statements filed for property taxes first due and payable after December 31, 2003.

**(b) This SECTION expires January 1, 2005."**

Page 301, delete lines 1 through 3.

Page 302, delete lines 20 through 42.

Page 303, delete lines 1 through 14.

Page 306, delete lines 13 through 18.

Page 307, delete lines 26 through 42.

Page 308, delete lines 1 through 19.

Page 309, delete lines 38 through 42.

Page 310, delete lines 1 through 10.

Page 310, between lines 30 and 31, insert a new paragraph and insert:

"SECTION 314. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to energy policy are transferred to the department of environmental management, established by IC 13-13-1-1, on July 1, 2003.

(b) The rules adopted by the department of commerce concerning energy policy before July 1, 2003, are considered, after June 30, 2003, rules of the department of environmental management until the department of environmental management adopts replacement rules.

(c) On July 1, 2003, the department of environmental management becomes the owner of all real and personal property relating to energy policy of the department of commerce.

(d) Any fund relating to energy policy under the control or supervision of the department of commerce on June 30, 2003, shall be transferred to the control or supervision of the department of environmental management on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of environmental management by this act.

**(f) This SECTION expires June 30, 2004.**

SECTION 315. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to tourism and community development are transferred to the department of tourism and community development, established by IC 4-4-3-2, as amended by this act, on July 1, 2003.

(b) The rules adopted by the department of commerce concerning tourism and community development before July 1, 2003, are considered, after June 30, 2003, rules of the department of tourism and community development until the department of tourism and community development adopts replacement rules.

(c) On July 1, 2003, the department of tourism and community development becomes the owner of all real and personal property relating to tourism promotion and community development of the department of commerce.

(d) Any fund relating to tourism and community development under the control or supervision of the department of commerce on June 30, 2003, shall be transferred to the control or supervision of the department of tourism and community development on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of tourism and community development by this act.

(f) This SECTION expires June 30, 2004.

SECTION 316. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to economic development in Indiana, except those relating to energy policy or tourism and community development, are transferred to the economic development corporation, established by IC 4-3-13.7, as added by this act, on July 1, 2003.

(b) The rules adopted by the department of commerce, except those related to energy policy and tourism and community development, before July 1, 2003, concerning the duties of the department of commerce are considered, after June 30, 2003, rules of the economic development corporation until the corporation adopts replacement rules.

(c) On July 1, 2003, the Indiana economic development corporation becomes the owner of all real and personal property, except the real and personal property related to energy policy and tourism and community development, of the department of commerce.

(d) Any fund under the control or supervision of the department of commerce, except funds related to energy policy and tourism and community development, on June 30, 2003, is transferred to the control or supervision of the economic development corporation on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the economic development corporation by this act.

(f) This SECTION expires June 30, 2004.

SECTION 317. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of workforce development established by IC 22-4.1-2-1.

(b) As used in this SECTION, "job skills training program" has the meaning set forth in IC 22-4.1-7-1, as added by this act.

(c) Notwithstanding IC 22-4.1-7-4, as added by this act, the department shall adopt rules under IC 4-22-2 to establish standards for:

(1) certifying job skills training programs in Indiana; and  
 (2) certifying that a job skills training program is related to particular career fields or job classifications, for purposes of allowing employees to claim a credit against state tax liability under IC 6-3.1-25, as added by this act;  
 as required under IC 22-4.1-7-4, as added by this act, not later than December 31, 2002.

(d) This SECTION expires January 1, 2004.

SECTION 318. [EFFECTIVE JANUARY 1, 2003] (a) IC 6-3.1-25 and IC 6-3.1-26, both as added by this act, apply to

taxable years beginning after December 31, 2002.

(b) Notwithstanding any other provision of this act or any other law, all fee increases made by this act to fees collectable under IC 13 shall be used exclusively for total operating expenses of the Indiana department of environmental management and its governing boards. The additional fees are appropriated for these purposes for the period beginning July 1, 2001, and ending June 30, 2003. Notwithstanding any other law, the budget agency or the board of finance has no authority to use the revenue generated by these fees for any other purpose.

SECTION 319. [EFFECTIVE JULY 1, 2002] IC 5-10.2-2-18, as added by this act, applies only to investments made after June 30, 2002."

Page 312, delete lines 22 through 42.

Delete page 313.

Page 314, delete lines 1 through 12.

Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 22, 2002.)

ESPICH

Upon request of Representatives Espich and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 19: yeas 45, nays 52. Motion failed.

#### HOUSE MOTION (Amendment 1004-1)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 59, line 37, after "the" insert "**qualified**".

Page 59, line 41, after "(1)" insert "**or more**".

Page 60, line 6, delete "is" and insert "**is**:"

(1)".

Page 60, line 7, after "taxes" insert "**first**".

Page 60, line 7, after "2001" insert "**and 2002**".

Page 60, line 7, after "that" insert "**are**".

Page 60, line 9, delete "finance." and insert "**finance; plus**

(2) **an amount necessary to repay the interest on a loan received by the qualified unit from the department of commerce after the taxpayer described in section 3 of this chapter defaulted on the taxpayer's property tax payments.**"

Page 60, line 17, delete "ten million three" and insert "**twenty-eight million dollars (\$28,000,000). The amounts loaned under this chapter are in addition to any loans received from the department of commerce by the qualified units after the taxpayer described in section 3 of this chapter defaulted on the taxpayer's property tax payments.**"

Page 60, delete line 18.

Page 61, line 1, after "(b)" delete "The" and insert "**Except as provided in subsection (d), the**".

Page 61, line 22, delete "2001;" and insert "**2001, May 2002, or November 2002;**".

Page 61, line 23, after "exceeds" insert "**the sum of**".

Page 61, line 24, delete "unit," and insert "**unit for property taxes payable in November 2001, May 2002, and November 2002,**".

(Reference is to HB 1004 as printed January 22, 2002.)

CHENEY

Motion prevailed.

#### HOUSE MOTION (Amendment 1004-13)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 4, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 4. IC 4-10-12-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 14, 2002 (RETROACTIVE)]: **Sec. 7. (a) As used in this section, "former employee" means an individual who:**

(1) **was employed at a facility operated by the division of disability, aging, and rehabilitative services (IC 12-9-1-1), the division of mental health and addiction (IC 12-21-1-1),**

the state department of health (IC 16-19-1-1), or the department of correction (IC 11-8-2-1);

(2) was laid off or terminated from employment solely because of the closing or downsizing of a facility after March 14, 2002; and

(3) has not found a job elsewhere with a state agency.

(b) A former employee is entitled to be paid an amount equal to sixty percent (60%) of the current salary value for:

(1) accrued vacation days in excess of thirty (30) for which the former employee is entitled to compensation one hundred percent (100%);

(2) accrued sick days; and

(3) accrued personal days;

that the former employee had accrued at the time of termination or layoff."

Page 23, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 20. IC 5-10-8-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE MARCH 14, 2002 (RETROACTIVE)]: Sec. 8.5. (a) As used in this section, "former employee" means an individual who:

(1) was employed at a facility operated by the division of disability, aging, and rehabilitative services (IC 12-9-1-1), the division of mental health and addiction (IC 12-21-1-1), the state department of health (IC 16-19-1-1), or the department of correction (IC 11-8-2-1);

(2) was laid off or terminated from employment after March 14, 2002, solely because of the closing or downsizing of a facility; and

(3) has not found a job elsewhere with a state agency.

(b) After March 14, 2002, the state shall provide to a former employee continued participation in a group health insurance program offered to active employees of the state for one (1) year after the date of termination or lay off.

(c) The state shall continue to make the employer contribution for former employees for a period of one (1) year or until the employee is covered by health insurance either:

(1) due to reemployment with the state; or

(2) due to employment in the private sector where the plan covering the employee is at least as beneficial to the employee as the state plan."

Page 301, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 293. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding any other law, rule, or policy, Muscatatuck state developmental center may not be closed but shall remain in operation until June 30, 2004.

(b) The budget agency shall make any transfers of funds between appropriations in P.L.291-2001, SECTION 7, necessary to keep the Muscatatuck state developmental center in operation through June 30, 2004.

(c) This SECTION expires July 1, 2004.

SECTION 294. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on placement of residents at Muscatatuck state developmental center and retraining and placement of employees.

(b) There is established the interim study committee on placement of residents at Muscatatuck state developmental center and retraining and placement of employees. The committee shall study the adequacy and safe placement of residents who are receiving care at Muscatatuck state developmental center. The committee shall study how employees are being retrained and placed. Attention should be given to placement of the employees elsewhere in state employment in view of the strategic hiring freeze implemented by the governor.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires December 31, 2004."

Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 22, 2002.)

LYTLE

Motion prevailed.

# HOUSE MOTION (Amendment 1004-3)

Mr. Speaker: I move that House Bill 1004 be amended to read as follows:

Page 18, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 15. IC 4-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. This article applies only to the following:

(1) Counties contiguous to Lake Michigan.

(2) Counties contiguous to the Ohio River.

(3) ~~Counties contiguous to Patoka Lake.~~ **A county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

SECTION 16. IC 4-33-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. All shipments of gambling devices, including slot machines, to licensed riverboats in ~~this state, Indiana,~~ the registering, recording, and labeling of which have been completed by the manufacturer or dealer thereof in accordance with 15 U.S.C. 1171 through 1178, are legal shipments of gambling devices into ~~the state of Indiana.~~

SECTION 17. IC 4-33-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11.5. **"Historic resort hotel" means a hotel built before 1930 with at least three hundred (300) sleeping rooms at the time of the hotel's original construction.**

SECTION 18. IC 4-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:

(1) Administering this article.

(2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.

(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.

~~(4) With respect to riverboats that operate on Patoka Lake, ensuring:~~

~~(A) the prevention of practices detrimental to the natural environment and scenic beauty of Patoka Lake; and~~

~~(B) compliance by licensees and riverboat patrons with the requirements of IC 14-26-2-5 and IC 14-28-1.~~

~~(5) (4) Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.~~

~~(6) (5) Imposing penalties for noncriminal violations of this article.~~

SECTION 19. IC 4-33-4-3, AS AMENDED BY P.L.14-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

~~(C) The natural environment and scenic beauty of Patoka Lake.~~

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by

IC 4-33-13.

(7) Be present through the commission's inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:

- (A) Certify the revenue received by a riverboat.
- (B) Receive complaints from the public.
- (C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

~~(D) With respect to riverboats that operate on Patoka Lake, ensure compliance with the following:~~

- ~~(i) IC 14-26-2-6;~~
- ~~(ii) IC 14-26-2-7;~~
- ~~(iii) IC 14-28-1.~~

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

- (A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
- (B) an emergency rule is likely to address the need.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

SECTION 20. IC 4-33-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) **This section does not apply to a riverboat located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

(b) After consulting with the United States Army Corps of Engineers, the commission may do the following:

- (1) Determine the waterways that are navigable waterways for purposes of this article.
- (2) Determine the navigable waterways that are suitable for the operation of riverboats under this article.

~~(b)~~ (c) In determining the navigable waterways on which riverboats may operate, the commission shall do the following:

- (1) Obtain any required approvals from the United States Army Corps of Engineers for the operation of riverboats on those waterways.
- (2) Consider the economic benefit that riverboat gambling provides to Indiana.
- (3) Seek to ensure that all regions of Indiana share in the economic benefits of riverboat gambling.
- ~~(4) Considering IC 14-26-2-6, IC 14-26-2-7, and IC 14-28-1, conduct a feasibility study concerning:~~

- ~~(A) the environmental impact of the navigation and docking of riverboats upon Patoka Lake; and~~
- ~~(B) the impact of the navigation and docking of riverboats upon the scenic beauty of Patoka Lake.~~

SECTION 21. IC 4-33-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. The commission shall annually do the following:

- (1) Review the patterns of wagering and wins and losses by persons on riverboat gambling operations under this article.
- (2) Make recommendations to the governor and the general assembly concerning whether limits on wagering losses should be imposed.
- ~~(3) Examine the impact on the natural environment and scenic beauty of Patoka Lake made by the navigation and docking of riverboats.~~

SECTION 22. IC 4-33-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The commission may issue to a person a license to own one (1) riverboat subject to the numerical and geographical limitation of owner's licenses under this section and IC 4-33-4-17. However, not more than eleven (11) owner's licenses may be in effect at any time. Except as provided in subsection (b), those eleven (11) licenses are as follows:

- (1) Two (2) licenses for a riverboat that operates from the largest city located in the counties described under IC 4-33-1-1(1).
- (2) One (1) license for a riverboat that operates from the second

largest city located in the counties described under IC 4-33-1-1(1).

(3) One (1) license for a riverboat that operates from the third largest city located in the counties described under IC 4-33-1-1(1).

(4) One (1) license for a city located in the counties described under IC 4-33-1-1(1). This license may not be issued to a city described in subdivisions (1) through (3).

(5) A total of five (5) licenses for riverboats that operate upon the Ohio River from counties described under IC 4-33-1-1(2). The commission may not issue a license to an applicant if the issuance of the license would result in more than one (1) riverboat operating from a county described in IC 4-33-1-1(2).

(6) One (1) license for a riverboat that operates upon Patoka Lake from located in a county described under IC 4-33-1-1(3).

(b) If a city described in subsection (a)(2) or (a)(3) conducts two (2) elections under section 20 of this chapter, and the voters of the city do not vote in favor of permitting riverboat gambling at either of those elections, the license assigned to that city under subsection (a)(2) or (a)(3) may be issued to any city that:

- (1) does not already have a riverboat operating from the city; and
- (2) is located in a county described in IC 4-33-1-1(1).

SECTION 23. IC 4-33-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) A riverboat that operates in a county described in IC 4-33-1-1(1) or IC 4-33-1-1(2) must:

- (1) have a valid certificate of inspection from the United States Coast Guard for the carrying of at least five hundred (500) passengers; and
- (2) be at least one hundred fifty (150) feet in length.

(b) A riverboat that operates on Patoka Lake in a county described under IC 4-33-1-1(3) must:

- (1) have the capacity to carry at least five hundred (500) passengers;
- (2) be at least one hundred fifty (150) feet in length; and
- (3) meet safety standards required by the commission.

(c) This subsection applies only to a riverboat that operates on the Ohio River. A riverboat must replicate, as nearly as possible, historic Indiana steamboat passenger vessels of the nineteenth century. However, steam propulsion or overnight lodging facilities are not required under this subsection.

SECTION 24. IC 4-33-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) This section applies to:

- (1) a county contiguous to the Ohio River;
- ~~(2) a county contiguous to Patoka Lake; and~~
- ~~(3)~~ (2) a county contiguous to Lake Michigan that has a population of less than four hundred thousand (400,000).

(b) Notwithstanding any other provision of this article, the commission may not issue a license under this article to allow a riverboat to operate in the county unless the voters of the county have approved the conducting of gambling games on riverboats in the county.

(c) If the docking of a riverboat in the county is approved by an ordinance adopted under section 18 of this chapter, or if at least the number of the registered voters of the county required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the county during the next general election:

"Shall licenses be issued to permit riverboat gambling in \_\_\_\_ County?"

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The clerk of the circuit court of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a county and the voters of the county do not vote in favor of



permitting riverboat gambling under this article, a second public question under this section may not be held in that county for at least two (2) years. If the voters of the county vote to reject riverboat gambling a second time, a third or subsequent public question under this section may not be held in that county until the general election held during the tenth year following the year that the previous public question was placed on the ballot.

SECTION 25. IC 4-33-6-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 19.5. (a) This section applies to a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

**(b) The commission may issue only one (1) license under this article to allow a riverboat to operate in the county within a historic preservation and development district established under IC 4-33-16.**

**(c) The commission may not issue a license under this article to allow a riverboat to operate in the county unless the voters of:**

**(1) a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200) located in the county; and**

**(2) a town having a population of less than one thousand five hundred (1,500) located in the county;**

**have approved gambling on riverboats in the county.**

**(d) If at least the number of registered voters of the town required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the clerk of the circuit court requesting that a local public question concerning riverboat gambling be placed on the ballot, the county election board shall place the following question on the ballot in the town described in subsection (c) during the next primary or general election or a special election held under this section:**

**"Shall a license be issued to allow riverboat gambling in the town of \_\_\_\_\_?"**

**(e) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9.**

**(f) If a public question is placed on the ballot under this section and the voters of the town do not vote in favor of allowing riverboat gambling under IC 4-33, another public question regarding riverboat gambling may not be held in the town for at least two (2) years.**

**(g) In a special election held under this section:**

**(1) IC 3 applies, except as otherwise provided in this section; and**

**(2) at least as many precinct polling places as were used in the towns described in subsection (c) during the most recent municipal election must be used for the special election.**

**(h) The clerk of the circuit court of a county holding an election under this section shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.**

SECTION 26. IC 4-33-10-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2.5. (a) This section applies only to property given after June 30, 1996.**

**(b) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.**

**(c) As used in this section, "license" means:**

**(1) an owner's license issued under this article; or**

**(2) a supplier's license issued under this article to a supplier of gaming supplies or equipment, including electronic gaming equipment.**

**(d) As used in this section, "licensee" means a person who holds a license.**

**(e) As used in this section, "officer" refers only to either of the following:**

**(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.**

**(2) An individual who is a successor to an individual described in subdivision (1).**

**(f) For purposes of this section, a person is considered to have an interest in a licensee if the person satisfies any of the following:**

**(1) The person holds at least a one percent (1%) interest in the licensee.**

**(2) The person is an officer of the licensee.**

**(3) The person is an officer of a person that holds at least a one percent (1%) interest in the licensee.**

**(4) The person is a political action committee of the licensee.**

**(g) A licensee or a person with an interest in a licensee may not give any property (as defined in IC 35-41-1-23) to a member of a precinct committee to induce the member of the precinct committee to do any act or refrain from doing any act with respect to the approval of a local public question under IC 4-33-6-19 or IC 4-33-6-19.5.**

**(h) A person who knowingly or intentionally violates this section commits a Class D felony."**

Page 20, line 8, strike "that".

Page 20, line 9, strike "operates on Patoka Lake," and insert **"located in a county described in IC 4-33-1-1(3),"**

Page 20, strike lines 11 through 33, begin a new line block indented and insert:

**"(1) Forty cents (\$0.40) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during the quarter shall be paid to the county.**

**(2) Forty cents (\$0.40) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during the quarter shall be paid to a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

**(3) Forty cents (\$0.40) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during the quarter shall be paid to a town having a population of less than one thousand five hundred (1,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

**(4) Ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during the quarter shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is located.**

**(5) Fifteen cents (\$0.15) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during a quarter shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.**

**(6) Ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during the quarter shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.**

**(7) Sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during the quarter shall be paid as follows:**

**(A) Twenty cents (\$0.20) to a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000).**

**(B) Twenty cents (\$0.20) to a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000).**

**(C) Twenty-five cents (\$0.25) to the Patoka Lake Development account established under IC 4-33-15.**

**(8) Twenty-five cents (\$0.25) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during a quarter shall be paid to the tourism commission of a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200) located in a county having a population of more than nineteen thousand three hundred**



(19,300) but less than twenty thousand (20,000).

(9) Twenty-five cents (\$0.25) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during a quarter shall be paid to the tourism commission of a town having a population of less than one thousand five hundred (1,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(10) Thirty cents (\$0.30) of the admissions tax collected by the licensed owner for each person embarking on the riverboat during a quarter shall be paid to Historic Landmarks Foundation of Indiana, Inc."

Page 20, line 35, strike "(c)(1):" and insert "(c):".

Page 21, line 4, after "(b)(3)" insert "or (c)(4)".

Page 21, line 13, strike "(c)(5):" and insert "(c)(6):".

Page 22, line 22, after "Sec. 5." insert "(a) This subsection does not apply to tax revenue remitted by a licensed owner operating a riverboat in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000)."

Page 22, line 31, after ";," insert "or".

Page 22, strike lines 32 through 34.

Page 22, line 35, strike "(C)" and insert "(B)".

Page 22, line 38, delete "(A)" and insert "(A)".

Page 22, line 38, strike "or a county described in clause (B); and".

Page 23, between lines 3 and 4, begin a new paragraph and insert: "(b) This subsection applies only to the tax revenue remitted by a licensed owner operating a riverboat in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The amount determined under section (1)(f)(3) of this chapter for the licensed owner shall be paid as follows:

(A) Twenty-five percent (25%) of the amount described in subdivision (1) shall be paid to the county.

(B) Twenty-five percent (25%) of the amount described in subdivision (1) shall be paid to a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200) located in the county.

(C) Twenty-five percent (25%) of the amount described in subdivision (1) shall be paid to a town having a population of less than one thousand five hundred (1,500) located in the county.

(D) Ten percent (10%) of the amount described in subdivision (1) shall be paid to the tourism commission of a town described in clause (B).

(E) Ten percent (10%) of the amount described in subdivision (1) shall be paid to the tourism commission of a town described in clause (C).

(F) Five percent (5%) of the amount described in subdivision (1) shall be paid to the county to be distributed as provided in subsection (c).

(2) The amount determined under section (1)(f)(4) of this chapter for the licensed owner shall be paid to the build Indiana fund lottery and gaming surplus account.

(3) The amount determined under section (1)(f)(5) for the licensed owner shall be paid to the state general fund.

(c) The county treasurer of the county described in subsection (b) shall set aside the wagering tax revenue paid to the county under subsection (b)(1)(F) in a separate account. Money in the account must be used to provide grants to governmental entities other than the county and the towns described in subsection (b). The fiscal bodies of the county and the towns shall act in concert to select qualified recipients of grants from the account. The fiscal body of the county may not appropriate money from the account to make a grant under this subsection unless the fiscal bodies of the towns have adopted resolutions approving the recipient and the amount of the grant.

SECTION 19. IC 4-33-15-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. Money in the account may be used only for one (1) or more of the following purposes to provide parking facilities and other capital projects that the department of natural resources determines are necessary for the proper operation of a riverboat on Patoka Lake in a county described in IC 4-33-1-1(3):

- (1) Site improvements.
- (2) Infrastructure improvements.
- (3) Buildings.
- (4) Structures.
- (5) Rehabilitation, renovation, and enlargement of buildings and structures.
- (6) Machinery.
- (7) Equipment.
- (8) Furnishings.
- (9) Facilities.

SECTION 20. IC 4-33-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

## **Chapter 16. Historic Hotel Preservation and Development District**

### **Sec. 1. This chapter applies to:**

(1) a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200); and

(2) a town having a population of less than one thousand five hundred (1,500);

located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

Sec. 2. As used in this chapter, "board" refers to the board of directors of the historic hotel preservation and development district established under section 3 of this chapter.

Sec. 3. (a) There is established in the towns described in section 1 of this chapter a historic hotel preservation and development district.

(b) The district includes all territory within the towns described in section 1 of this chapter.

Sec. 4. (a) The district is a body corporate and politic that may sue or be sued and plead and be impleaded. The district has the powers and jurisdiction provided in this chapter.

(b) The exercise by the district of the district's powers is an essential governmental function of the state and the towns in which the district is located, but the district is not immune from liability.

Sec. 5. The district is established for the purpose of managing and supervising, in conjunction with other state authorities, the commercial, economic, and recreational development of the territory in which the district is formed.

Sec. 6. (a) The district shall be governed by a board of directors consisting of the following five (5) members:

(1) A member of the legislative body of a town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200) located in the county, who is appointed by the legislative body of the town.

(2) A member of the legislative body of a town having a population of less than one thousand five hundred (1,500) located in the county, who is appointed by the legislative body of the town.

(3) The owner of a historic resort hotel located in a town described in subdivision (1) or the owner's designee.

(4) The owner of a historic resort hotel located in a town described in subdivision (2) or the owner's designee.

(5) A representative of the Historic Landmarks Foundation of Indiana, Inc., appointed by the governor upon the recommendation of the board of trustees of the foundation.

(b) The director appointed under subsection (a)(5) shall serve a two (2) year term beginning July 1, 2002, and July 1 of each even-numbered year thereafter.

Sec. 7. (a) The board of directors shall meet in a public place within the towns in which the district is formed after giving

notice.

(b) The board shall cause a detailed written record to be kept in the form of minutes of all the board's meetings. The board shall meet at least four (4) times annually.

Sec. 8. Each member of the board is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. Three (3) members constitute a quorum.

Sec. 10. Each year, the board shall elect the following officers from among the board's members:

- (1) A chairperson.
- (2) A vice chairperson.
- (3) A treasurer.

Each officer shall serve a term of one (1) year beginning July 1.

Sec. 11. The board has and may exercise the following powers and duties:

- (1) To manage and supervise, to the extent permitted by this article, the development of riverboat gaming within the jurisdiction of the district.
- (2) To assist other agencies of state and local government having jurisdiction over the territory within the district.
- (3) To enter into contracts in furtherance of the district's purposes, including, without limitation, the construction, maintenance, and operation of a riverboat under this article.
- (4) To employ a professional staff to assist the board in carrying out its duties and to engage consultants, attorneys, accountants, and other professional personnel who are necessary to carry out the duties of the board.
- (5) To prepare a budget annually, and to appropriate funds for the discharge of the district's purposes and duties.
- (6) To acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise.
- (7) To hold, use, improve, maintain, operate, own, manage, or lease (as lessor or lessee) real or personal property or any interest in that property.
- (8) To sue and be sued.
- (9) To make grants for the following:
  - (A) The preservation, restoration, maintenance, operation, and development of the historic resort hotels located in the towns described in section 1 of this chapter.
  - (B) The promotion of the historic, scenic, aesthetically pleasing, cultural, educational, and recreational nature of the community in which the historic resort hotels are located.
- (10) Any other power necessary or incidental to the operation and management of a riverboat.
- (11) Any other power necessary or incidental to the preservation, restoration, maintenance, operation, and development of the historic resort hotels located in the towns described in section 1 of this chapter and the surrounding community.

Sec. 12. The district shall do the following:

- (1) Own the gaming license described in IC 4-33-6-1(a)(6).
- (2) Purchase the real estate upon which a riverboat having the license described in IC 4-33-6-1(a)(6) may be constructed.
- (3) Develop a request for proposals for persons interested in operating a riverboat under IC 4-33 on the real estate owned by the commission.
- (4) Collect and remit the riverboat admissions tax and the riverboat wagering tax.
- (5) Promote the preservation, restoration, maintenance, operation, and development of the historical nature and legacy of:
  - (A) the historic resort hotels located in the towns described in section 1 of this chapter; and

(B) the surrounding community.

(6) Promote the historic preservation, restoration, maintenance, operation, and development of the historic resort hotels located in the towns described in section 1 of this chapter.

(7) Cooperate in the development of a comprehensive tourism and development strategy designed to enhance occupancy rates and overnight stays at the historic resort hotel located in a town described in section 1(1) of this chapter.

(8) Promote the development of the historic, scenic, aesthetically pleasing, cultural, educational, and recreational nature of the community in which the historic resort hotels are located.

(9) Cooperate with the department of transportation to improve highway access and rail routes to the towns described in section 1 of this chapter.

(10) Cooperate with local boards of aviation commissioners to enhance and improve airport facilities in and air transportation to the towns described in section 1 of this chapter.

(11) Appoint a historic preservation advisory committee consisting of at least five (5) individuals nominated by the Historic Landmarks Foundation of Indiana, Inc.

Sec. 13. The title to real property donated, given, devised, or bequeathed to the district or purchased by the district must be:

- (1) good and sufficient;
- (2) approved by the attorney general; and
- (3) taken in the name of the district.

Sec. 14. Money acquired by the district:

- (1) is subject to the laws concerning the deposit and safekeeping of public money; and
- (2) must be deposited under the advisory supervision of the state board of finance in the same way and manner, at the same rate of interest, and under the same restrictions as other state money.

Sec. 15. The money of the district and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money are subject to the following:

- (1) Examination by the state board of accounts.
- (2) The same penalties and the same provision for publicity that are provided by law for state money and state officers.

Sec. 16. Proceeds from the acquisition or disposition of real or personal property by the district under the district's powers under section 11(6) or 11(7) of this chapter must be divided equally between the trust funds established under IC 4-33-17 and IC 4-33-18.

SECTION 21. IC 4-33-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 17. French Lick Historic Resort Hotel Trust Fund

Sec. 1. As used in this chapter, "board" refers to the board of directors of the historic hotel preservation and development district established under IC 4-33-16.

Sec. 2. As used in this chapter, "fund" refers to the French Lick historic resort hotel trust fund established by section 3 of this chapter.

Sec. 3. (a) The French Lick historic resort hotel trust fund is established.

(b) The fund consists of the following:

- (1) Money disbursed from the board.
- (2) Donations.
- (3) Interest and dividends on assets of the fund.
- (4) Money transferred to the fund from other funds.
- (5) Money from any other source.

Sec. 4. (a) The board shall manage and develop the fund and the assets of the fund.

(b) The board shall do the following:

- (1) Establish a policy for the investment of the fund's assets.
- (2) Perform other tasks consistent with prudent

management and development of the fund.

Sec. 5. (a) Subject to the investment policy of the board, the treasurer of state shall administer the fund and invest the money in the fund.

(b) The expenses of administering the fund and implementing this chapter shall be paid from the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. The board has the sole authority to allocate money from the fund for the purpose of the preservation, restoration, maintenance, operation, and development of the French Lick historic resort hotel. The board shall allocate money from the fund upon the request of the French Lick historic resort hotel for the purposes set forth in this section.

Sec. 7. The board shall prepare an annual report concerning the fund and submit the report to the legislative council before October 1 of each year. The report is a public record.

SECTION 22. IC 4-33-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 18. West Baden Springs Historic Resort Hotel Trust Fund**

Sec. 1. As used in this chapter, "board" refers to the board of directors of the historic hotel preservation and development district established under IC 4-33-16.

Sec. 2. As used in this chapter, "fund" refers to the West Baden Springs historic resort hotel trust fund established by section 3 of this chapter.

Sec. 3. (a) The West Baden Springs historic resort hotel trust fund is established.

(b) The fund consists of the following:

- (1) Money disbursed from the board.
- (2) Donations.
- (3) Interest and dividends on assets of the fund.
- (4) Money transferred to the fund from other funds.
- (5) Money from any other source.

Sec. 4. (a) The board shall manage and develop the fund and the assets of the fund.

(b) The board shall do the following:

- (1) Establish a policy for the investment of the fund's assets.
- (2) Perform other tasks consistent with prudent management and development of the fund.

Sec. 5. (a) Subject to the investment policy of the board, the treasurer of state shall administer the fund and invest the money in the fund.

(b) The expenses of administering the fund and implementing this chapter shall be paid from the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. The board has the sole authority to allocate money from the fund for the purpose of the preservation, restoration, maintenance, operation, and development of the West Baden Springs historic resort hotel. The board shall allocate money from the fund upon the request of the West Baden Springs historic resort hotel for the purposes set forth in this section.

Sec. 7. The board shall prepare an annual report concerning the fund and submit the report to the legislative council before October 1 of each year. The report is a public record.

SECTION 23. IC 4-33-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

#### **Chapter 19. Gambling Operations in a Certain County**

Sec. 1. This chapter applies only to a county described in

IC 4-33-1-1(3).

Sec. 2. As used in this chapter, "board" refers to the board of directors of the historic hotel preservation and development district established under IC 4-33-16.

Sec. 3. As used in this chapter, "district" refers to the historic hotel preservation and development district established under IC 4-33-16.

Sec. 4. As used in this chapter, "operating expenses" means the following:

- (1) Money spent by the board in the exercise of the board's powers under IC 4-33-16 as limited by section 5 of this chapter.
- (2) Money spent to operate the riverboat.
- (3) Management fees paid to the riverboat operator.

Sec. 5. The amount of money that the board may spend each year in the exercise of the board's powers under IC 4-33-16 may not exceed an amount equal to:

- (1) twenty-five cents (\$0.25); multiplied by
- (2) the number of patrons that embark on the riverboat owned by the development commission for a gambling excursion during the year.

Sec. 6. A riverboat authorized under this article for a county described in IC 4-33-1-1(3) must be located on real property owned by the district.

Sec. 7. The board may apply to the commission for a license to operate a riverboat under this chapter on real property owned by the district.

Sec. 8. The board shall contract with another person to operate a riverboat located in the county.

Sec. 9. The net income derived from the riverboat after the payment of all operating expenses shall be equally divided between the French Lick historic resort hotel trust fund established under IC 4-33-17 and the West Baden Springs historic resort hotel trust fund established under IC 4-33-18.

Sec. 10. (a) A gambling game offered at a riverboat owned by the district must be:

- (1) played on operational reproductions of historic gaming equipment; or
- (2) played with reproductions of historic playing cards, dice, tickets, punchboards, or other wagering devices.

(b) The board may not install gaming equipment under this section unless the gaming equipment is approved by the commission.

(c) The commission shall adopt rules under IC 4-22-2 to establish criteria for the approval of gaming equipment and wagering devices under this chapter."

Page 300, line 30, after "[EFFECTIVE JULY 1, 2002]:" insert "IC 4-33-4-19;"

Renumber all SECTIONS consecutively.

(Reference is to HB 1004 as printed January 22, 2002.)

DENBO

Representative Cook rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

## **RESOLUTIONS ON FIRST READING**

### **House Resolution 11**

Representative Kruzan introduced House Resolution 11:

A RESOLUTION honoring the life and memory of Ira Wilmer "Will" Counts, a nationally distinguished photojournalist and teacher, for his contributions to photojournalism and the citizens of our great nation.

*Whereas, Ira Wilmer Counts, better known as Will, was born August 24, 1931, in Little Rock, Arkansas, and died October 6, 2001, at his Bloomington, Indiana, home;*

*Whereas, Will Counts, a graduate of Little Rock High School and the University of Central Arkansas, earned a master's degree and*

doctorate from Indiana University, Bloomington, Indiana;

Whereas, Will Counts worked as a photographer-editor for *The Arkansas Democrat* and the *Associated Press* in Chicago, Illinois, and Indianapolis, Indiana, before joining the faculty of Indiana University's School of Journalism in 1963;

Whereas, Will Counts was nominated for the Pulitzer Prize in 1957 for the images he caught as tensions rose at Little Rock Central High School, Little Rock, Arkansas, in the midst of a violent desegregation battle;

Whereas, Will Counts' Pulitzer Prize-nominated photograph was taken on Labor Day in 1957 and later named one of the top 100 photographs of the century by the *Associated Press*;

Whereas, The winning photograph was an image of Elizabeth Eckford, a black girl, walking alone along Park Street with a crowd of jeering white people in her wake. Included in this photo was Hazel Bryan, the white student seen screaming at Eckford;

Whereas, In 1997, Will and his wife Vivian were able to bring about a reconciliation between Elizabeth Eckford, one of the Little Rock Nine and the principal target of the segregationist mob, and Hazel Bryan Massery, healing the wounds of 40 years;

Whereas, Will Counts' photograph of the two women as they met and embraced in front of their old school became a highlight of his career with pictures of both incidents appearing in his book, *A Life Is More Than A Moment*, published in 1999 by the Indiana University Press;

Whereas, Will Counts developed and directed the visual sequence in the Indiana University School of Journalism, increasing enrollment from eight students in 1963 to 80 in 1995;

Whereas, Will Counts and John Ahlhauser were instrumental in developing the Indiana University photojournalism program into one of the best in the country;

Whereas, As a testament to Will Counts' teaching ability, his students have gone on to win recognition for themselves, including seven Pulitzer Prizes among six former students;

Whereas, Will Counts successfully encouraged his students to be creative, express themselves, and seek a broad education that would serve their goals and their passion for photography;

Whereas, Will Counts, journalism professor emeritus, taught at Indiana University for 32 years, retiring in 1995;

Whereas, Will Counts' work appeared in *A Photographic Legacy*, *Arkansas Photographs from the FSA Collection*, *Monroe County In Focus*, *The Magnificent 92 Indiana Courthouses*, and *A Life Is More Than A Moment*;

Whereas, Will Counts was selected to the Indiana Journalism Hall of Fame in 1996 and received a Sagamore of the Wabash from Governor Evan Bayh, two awards from the National Press Photographers Association, and an Indiana Associated Press Award for his distinguished contributions to journalism; and

Whereas, Will Counts' personal vision and passion for photography and journalism have contributed greatly to present and future generations: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives wishes to acknowledge the many contributions of Ira Wilmer "Will" Counts to Indiana University, the state of Indiana, and the nation. He will be missed by all who knew him.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to his wife Vivian, his two children Wyatt Milton Counts and Claudia Counts, and his two stepchildren Robert Paul McRae and Katherine Rice McRae Lattimer.

The resolution was read a first time and adopted by voice vote.

## House Resolution 12

Representatives V. Smith, C. Brown, and Harris introduced House Resolution 12:

A RESOLUTION memorializing James W. Holland.

Whereas, James W. Holland, Gary, Indiana, died Wednesday, January 2, 2002, at the age of 77;

Whereas, James W. Holland helped guide Gary, Indiana, through the explosive years when African-Americans were broadening their political horizons locally and throughout the United States;

Whereas, James W. Holland served his community admirably for five decades, beginning with his appointment as the head of Gary's Model Cities Program, with the election of Richard G. Hatcher as Gary's first African-American mayor;

Whereas, In 1972, James W. Holland was appointed deputy mayor, a post he held throughout the remainder of Mayor Hatcher's five term tenure;

Whereas, The value of James W. Holland to the Hatcher administration can be measured in a quotation from Mayor Hatcher: "In the 20 years I served as mayor, when a serious decision had to be made, there wasn't one time I didn't sit down and talk to Jim about it. And he never gave me any bad advice. He always had insight no one else had.";

Whereas, James W. Holland also served as director of the Gary Public Transportation Corporation, retiring from that position in 1998;

Whereas, In addition to his accomplishments in the governmental arena, James W. Holland was a member of the famed World War II flying group, the Tuskegee Airmen, set an Illinois state long jump record that stood for more than 20 years, and was a two time All-American long jumper at Northwestern University where he earned a bachelor's degree; and

Whereas, Known for his great sense of humor and his ability to mediate difficult situations, the accomplishments of James W. Holland will stand as a shining example for generations to come: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives wishes to express its deepest sympathies to the family of James W. Holland.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the family of James W. Holland.

The resolution was read a first time and adopted by voice vote.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1258, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-1-16-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. If approval by the state department of health is required for the acquisition of health facility property under ~~IC 16-29-1~~, IC 16-29-1.1, health facility property may not be financed under this chapter without obtaining approval of the project under ~~IC 16-29-1~~: IC 16-29-1.1."

Page 1, delete lines 1 through 5.

Page 2, line 12, delete "shall be used to enhance" and insert "**are appropriated to pay for services under the state Medicaid program.**"

Page 2, delete lines 13 through 42, begin a new paragraph and insert:

"SECTION 3. IC 16-18-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 67. (a) "Comprehensive care bed", for purposes of ~~IC 16-29-1~~,

**IC 16-29-1.1**, has the meaning set forth in ~~IC 16-29-1-1~~. **IC 16-29-1.1-1**.

(b) "Comprehensive care bed", for purposes of IC 16-29-2, has the meaning set forth in IC 16-29-2-1.

SECTION 4. IC 16-21-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in ~~IC 16-29-1-1~~, **IC 16-29-1.1-11**, the executive board may, upon recommendation by the state health commissioner and for good cause, waive a rule:

- (1) adopted under this chapter; or
- (2) that may be waived under IC 16-28 for a specified time for a hospital based health facility or a hospital licensed under this article.

(b) Disapproval of waiver requests requires executive board action.

(c) A waiver may not adversely affect the health, safety, and welfare of the residents or patients.

SECTION 5. IC 16-21-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state department shall promptly, after receipt of a notice of intent to incur a capital expenditure under ~~IC 16-29-1~~ **IC 16-29.1.1** because of the proposed construction or addition of comprehensive care beds or the proposed conversion of beds to comprehensive care beds, file a copy of this notice with the reports required to be filed under section 3 of this chapter.

(b) The state department also shall file the parts of reports, documents, or correspondence that provide further information regarding proposed capital expenditures and proposed changes in fees or charges related to the proposed capital expenditure with the reports required to be filed under section 3 of this chapter.

SECTION 6. IC 16-28-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The council shall do the following:

(1) Propose the adoption of rules by the department under IC 4-22-2 governing the following:

- (A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of patients.
- (B) Qualifications of applicants for licenses issued under this article to assure the proper care of patients.
- (C) Operation, maintenance, management, equipment, and construction of facilities required to be licensed under this article if jurisdiction is not vested in any other state agency.
- (D) Manner, form, and content of the license, including rules governing disclosure of ownership interests.
- (E) Levels of medical staffing and medical services in cooperation with the office of Medicaid policy and planning, division of family and children, and other agencies authorized to pay for the services.

(2) Recommend to the fire prevention and building safety commission fire safety rules necessary to protect the health, safety, security, rights, and welfare of patients.

(3) Classify health facilities in health care categories.

(4) Encourage the development of social and habilitative programs in health facilities, as recommended by the community residential facilities council.

(5) Act as an advisory body for the division, commissioner, and state department.

(6) Adopt rules under IC 4-22-2, as provided in ~~IC 16-29-1-13~~. **IC 16-29-1.1-13**.

SECTION 7. IC 16-29-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 1.1. Health Facility Certificates of Need; Comprehensive Care Beds**

**Sec. 1. (a) As used in this chapter, "comprehensive care bed" means a bed in a comprehensive care facility that:**

- (1) is licensed or is to be licensed under IC 16-28-2; or
- (2) functions as a bed licensed under IC 16-28-2.

(b) The term does not include a comprehensive care bed that will be used solely to provide specialized services. The state department shall review applications for a certificate of need for a comprehensive care bed used solely to provide specialized

services under IC 16-29-2.

**Sec. 2.** Except as provided in IC 16-29-2, the Indiana health facilities council shall review the following applications for a certificate of need:

(1) Applications for comprehensive care beds that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

(2) Applications to construct or add comprehensive care beds or to convert beds to comprehensive care beds.

**Sec. 3.** Except as provided in IC 16-29-2, the Indiana health facilities council shall make a finding based on information prepared by the state department in accordance with IC 16-30 and any other relevant information as to the need for the comprehensive care beds or the certification of comprehensive care beds as requested in the application. The council shall recommend and the state department shall approve a certificate of need for additional comprehensive care beds or the certification of comprehensive care beds only after finding the following:

(1) Certification or addition of comprehensive care beds in the county is necessary.

(2) The applicant for a certificate of need has illustrated or documented the applicant's experience or capacity to provide quality, effective, and efficient care that includes a description of any past or current adverse licensure action against any facility owned, operated, or managed by the applicant.

**Sec. 4.** There is a presumption that the certification of the beds is not necessary if, in the county of application:

(1) the existing utilization rate for all certified comprehensive care beds is less than ninety percent (90%); or

(2) the addition of the certified beds proposed in the application will reduce the existing utilization rate for all certified comprehensive care beds below ninety percent (90%).

**Sec. 5.** There is a presumption that additional noncertified beds are not necessary if, in the county of application:

(1) the existing utilization rate for all noncertified comprehensive beds is less than ninety percent (90%); or

(2) the addition of the noncertified beds proposed in the application will reduce the existing utilization rate for all noncertified comprehensive beds below ninety percent (90%).

**Sec. 6. (a)** Except as provided in IC 16-29-2 and IC 16-29-3-1:

(1) comprehensive care beds may not be constructed or added; and

(2) beds may not be converted to comprehensive care beds; without the review and approval required in this chapter.

(b) Comprehensive care beds that are not certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.), may not be certified without the review and approval required in this chapter.

(c) The review and approval required in this chapter are a condition to the licensure of the facility.

**Sec. 7.** A certificate of need for a project to construct, add, or convert beds that receives final approval of the state department under this chapter or IC 16-29-1 (before its repeal) becomes void eighteen (18) months after the determination becomes final unless:

(1) construction plans for the project are approved by the state department and the department of fire and building safety;

(2) the applicant has completed construction of the project's foundation in conformity with the approved plans as certified by an independent architect licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(3) construction work on the project is continuous and in conformity with the approved plans.

Sec. 8. Notwithstanding sections 1 through 7 of this chapter:

- (1) a health facility may construct a maximum of fifteen (15) comprehensive care beds; or
- (2) a hospital that provides long term care services may construct a maximum of ten (10) comprehensive care beds; that are not to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

Sec. 9. This chapter does not apply to comprehensive care beds that are:

- (1) owned, operated, or sponsored by a religious organization that:
  - (A) is an Indiana nonprofit corporation;
  - (B) was exempt, by virtue of the religious organization's status as a religious organization, from gross income taxation under IC 6-2.1-3-20 on or before December 31, 2001;
  - (C) is operated for bona fide religious purposes; and
  - (D) is not controlled, owned, or operated by a hospital licensed under IC 16-21-2; or
- (2) owned or operated by an Indiana nonprofit corporation that is owned by a religious organization described in subdivision (1);

if the comprehensive care beds are used to serve members of the religious organization.

Sec. 10. This chapter does not apply to comprehensive care beds that are owned, operated, or sponsored by a fraternal organization that:

- (1) was exempt from gross income taxation under IC 6-2.1-3-21 on or before December 31, 2001; and
- (2) owned, operated, or sponsored a health facility licensed under IC 16-28-2 on December 31, 2001;

if the comprehensive care beds are used to serve members of the fraternal organization.

Sec. 11. (a) Except as provided in subsection (b) and section 8(2) of this chapter, beds exempt from review by the Indiana health facilities council under sections 9 and 10 of this chapter may not be sold, leased, or otherwise conveyed to any person for ten (10) years after the date the beds are licensed. Violation of this subsection results in loss of eligibility for participation in state or federal reimbursement programs under Title XVIII or Title XIX of the federal Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.).

(b) Subsection (a) does not prohibit the sale, lease, or conveyance of comprehensive care beds described in section 9 of this chapter to another:

- (1) religious organization described in section 9(1) of this chapter; or
- (2) nonprofit corporation that is owned by a religious organization.

However, beds sold, leased, or conveyed under this subsection must be used to serve the members of either the religious organization or the religious organization's nonprofit corporation to whom the beds are conveyed or that conveys the beds.

(c) Subsection (a) does not prohibit the sale, lease, or conveyance of comprehensive care beds described in section 10 of this chapter to another fraternal organization described in section 10 of this chapter. However, beds sold, leased, or conveyed under this subsection must be used to serve members of either the fraternal organization to whom the beds are conveyed or the fraternal organization that conveys the beds.

Sec. 12. The person to whom a certificate of need has been granted, after the review and approval required by this chapter, or under any statute or rule implementing former Section 1122 of the Social Security Act, as amended (42 U.S.C. 1320a-1), is the owner of the certificate of need until the person transfers or alienates the ownership interest in the certificate. Unless the certificate of need expires or is voided, once issued, the certificate

of need is the personal property of the owner and is freely transferable or alienable, except that the certificate of need may not be used outside of the county with respect to which the certificate of need was issued.

Sec. 13. The Indiana health facilities council shall adopt rules under IC 4-22-2 to implement this chapter and to establish a reasonable fee for filing and review of an application under this chapter. A rule adopted under this chapter may not be waived. Fees imposed in connection with the certificate of need review under this article are payable to the state department for use in administration of the certificate of need program created by this chapter.

Sec. 14. The Indiana health facilities council shall consider the following when determining whether to recommend the issuance of a certificate of need:

- (1) Information, if available, regarding whether the applicant has provided quality care services.
- (2) The costs the applicant has incurred to provide services.

Sec. 15. A decision of the council under this chapter is subject to review under IC 4-21.5.

SECTION 8. IC 16-29-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Notwithstanding ~~IC 16-29-1~~, IC 16-29-1.1, a hospital licensed under IC 16-21-2 may convert:

- (1) beginning January 1, 1986, not more than thirty (30) acute care beds to skilled care comprehensive long term care beds; and
- (2) beginning June 1, 1989, not more than an additional twenty (20) acute care beds to either intermediate care comprehensive long term care beds or skilled care comprehensive long term care beds;

that are to be certified for participation in a state or federal reimbursement program, including programs under Title XVIII or Title XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 42 U.S.C. 1396 et seq.), if those beds will function essentially as beds licensed under IC 16-28.

SECTION 9. IC 34-52-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to any other statute governing reimbursement of fees and other expenses, this chapter applies to the reimbursement of the fees and other expenses incurred in preparing for or prosecuting:

- (1) a proceeding under IC 4-21.5-5 to judicially review a final order made by a state agency;
- (2) an appeal from a final determination made by the worker's compensation board;
- (3) an appeal of a final determination made by the department of state revenue; or
- (4) an appeal of a final determination made by the department of workforce development or the department of workforce development unemployment insurance review board.

(b) However, this chapter does not apply to an order or other determination:

- (1) under:
  - (A) IC 16-27-1;
  - (B) IC 16-28;
  - (C) ~~IC 16-29-1~~, IC 16-29-1.1;
  - (D) IC 16-30;
  - (E) IC 12-28-4; or
  - (F) IC 12-28-5;
- (2) by an agency described by IC 25-1-8-1; or
- (3) by the board of podiatric medicine.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 16-29-1.1, as added by this act, a health facility (as defined by IC 16-18-2-167) is not required to obtain a certificate of need to construct comprehensive care beds (as defined by IC 16-29-1.1-1, as added by this act) if:

- (1) construction plans for the project are approved by the state department of health and the department of fire and building safety by March 15, 2002;
- (2) the applicant has completed construction of the project's foundation by July 1, 2002, in conformity with the approved plans as certified by an independent architect

licensed under IC 25-4 or an independent professional engineer licensed under IC 25-31; and

(3) construction work on the project is continuous and in conformity with the approved plans.

(b) This SECTION expires July 1, 2004.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(b) The select joint commission on Medicaid oversight shall study the occupancy rates of health facilities in Indiana. The study must include the following:

(1) Whether there is a correlation between occupancy and efficient operation of health facilities.

(2) The effect of occupancy rates on the state Medicaid program.

(3) The effect of state action on occupancy rates.

(4) Methods to increase occupancy rates.

(c) The commission shall invite and consider testimony from the following:

(1) State agencies.

(2) Health facilities.

(3) Consumers.

(d) The commission shall issue a final report before December 1, 2002.

(e) This SECTION expires January 1, 2003."

Page 3, delete line 1.

Page 3, line 29, delete "shall be used" and insert "is appropriated".

Page 3, line 30, delete "to supplement and enhance reimbursement to nursing".

Page 3, line 31, delete "facilities".

Page 3, delete lines 33 through 38.

Page 3, line 39, delete "(g)" and insert "(f)".

Page 3, line 40, delete "shall be expended to" and insert "is appropriated to pay for".

Page 3, delete line 41.

Page 4, line 2, delete "(h)" and insert "(g)".

Page 4, line 10, delete "(i)" and insert "(h)".

Page 6, delete lines 31 through 38, begin a new paragraph and insert:

"SECTION 20. [EFFECTIVE UPON PASSAGE] (a) The state's rate setting contractor shall calculate, using the most recently completed cost reports on file as of May 31, 2002, and notify each health facility of its reimbursement rate under this act not later than August 1, 2002.

(b) Beginning August 1, 2002, the office shall pay Medicaid reimbursement rates as modified by this act.

(c) This SECTION expires July 1, 2007."

Page 7, between lines 21 and 22, begin a new line block indented and insert:

"(5) Any other rule that adjusts Medicaid reimbursement for health facilities that is adopted by the office after September 1, 2001, but before the passage of this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1258 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 7, nays 5.

C. BROWN, Chair

Report adopted.

## OTHER BUSINESS ON THE SPEAKER'S TABLE

### Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bill 1258 had been referred to the Committee on Ways and Means.

### Reassignments

The Speaker announced the following reassignments:

House Bill 1265 from the Committee on Rules and Legislative Procedures to the Committee on Human Affairs.

House Joint Resolution 1 from the Committee on Rules and Legislative Procedures to the Committee on Judiciary.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Alderman, Aguilera, and Frenz be added as coauthors of House Bill 1020.

DOBIS

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Dumezich, Aguilera, and Dobis be added as coauthors of House Bill 1026.

STEVENSON

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Lytle be added as coauthor of House Bill 1042.

ULMER

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Burton be added as coauthor of House Bill 1075.

MAHERN

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Grubb and Mangus be added as coauthors of House Bill 1095.

FRIEND

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Dillon be added as coauthor of House Bill 1111.

LEUCK

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1266.

V. SMITH

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Klinker be added as coauthor of House Bill 1355.

BAUER

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representatives Thompson, Mock, and Cochran be added as coauthors of House Bill 1357.

BUCK

Motion prevailed.

### HOUSE MOTION

Mr. Speaker: I move that Representative Alderman be added as coauthor of House Bill 1387.

TURNER

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.



On the motion of Representative Day the House adjourned at 2:35 p.m., this twenty-fourth day of January, 2002, until Monday, January 28, 2002, at 1:00 p.m.

JOHN R. GREGG  
Speaker of the House of Representatives

LEE ANN SMITH  
Principal Clerk of the House of Representatives